

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., Oct. 1902

HON. WILLIAM D. JELKS,
Governor of Alabama,

DEAR SIR:

In compliance with subdivision 5 of section 2028 of the Code of Alabama, I respectfully submit my second biennial report of the business of office of the Attorney General of the State.

This report deals with criminal business before the Supreme Court and in the several nisi prius, or trial, courts of the State as follows:

CRIMINAL BUSINESS.

(A) The number of criminal causes appealed to the Supreme Court, the number of affirmances and the number of reversals and a comparative statement of the volume of criminal business determined by the Supreme Court and number of affirmances and reversals from the periods of 1885-6 to and including 1901-2. This statement shows that there has been an average increase of the volume of the business before the Supreme Court, with slight variations, since 1887-8, of about forty per cent,—and that the percentage of affirmances in the periods of 1899-1900 and 1901-1902 has been greater and the per centage of reversals has been less than in any of these former periods. The lowest *per cent.* of reversals in any one of these former periods being thirty-five per cent. and the per cent. of reversals in 1899-1900 and 1901-1902 being twenty-eight *per cent.* This would naturally follow from the fact that the law has become more definitely settled and fixed by the

decisions of the highest court of the State. (B) A tabulated statement of the number and character of criminal cases disposed of in the entire State for the past two years, as consolidated from the reports of solicitors, and the specific disposition of same. (C.) This report taking each of criminal cases separately, shows the number disposed of in each judicial circuit, and in each city or other criminal court, for a particular territory, having a separate solicitor, the number of convictions, the number of acquittals, the number of nolle prosequies entered, the number of cases abated or otherwise disposed of; the number of sentences to death, the number of sentences to the penitentiary, the number of other sentences including fines imposed, and the total under each head above mentioned.

CIVIL BUSINESS.

The report contains a tabulated statement of the several amounts collected by suits and otherwise and the total amounts collected by the Attorney General for the two years ending September 30th, 1902. The full amount thus collected and immediately covered into the State treasury aggregate the sum of \$8,423.30.

Since this statement was tabulated judgment has been recovered against the sureties on the bond of H. Ben Ferrell, former sheriff of Russell county, for the sum of \$4,293.62 and execution issued thereon. Your Excellency placed in my hands for collection balance due the State of Alabama upon the defalcation of F. C. Randolph, former judge of probate of Montgomery county. No judgment had been rendered against Judge Randolph, and it became necessary to ascertain the correct amount due, and be prepared to prove the same in case of any litigation. This was correctly and accurately ascertained and accomplished. By the death of Thomas C. Corbin, an uncle of Judge Randolph, and a resident of the city of Philadelphia, Pennsylvania, Judge Randolph became entitled to a valuable interest in his large estate. After consultation with you it was determined that I should go to Philadelphia and ascertain the exact status of the matter. This was done and it was decided to institute suit against Judge Randolph by for-

eign attachment and garnish his interest in hands of administrators of the Corbin estate. This necessitated the making of an attachment bond in the sum of fifty thousand dollars with good and sufficient surety—this bond was made at the lowest premium by the National Surety Company of New York,—a surety and guarantee corporation doing business in the State of Alabama. This step was necessitated by the fact that Judge Randolph could have made a conveyance of his interest to a bona fide purchaser for full value and jeopardize the collection of the claim of the State, and it was deemed essential, prudent and wise to obtain this lien before such conveyance could be made. Judge Randolph in 1897, at Medellin, Republic of Columbia, had executed a power of attorney to Mrs. Sallie N. Randolph, his wife, of the city of Montgomery, authorizing her to receive, sell, convey, etc., any and all interest he might have in any real or personal property in this State, and in any of the States of the United States of America, and in pursuance of such power Mrs. Randolph had conveyed his interest in the Corbin estate to Mr. Cecil H. Willcox of Jacksonville, Fla. These parties stated that it was their purpose to settle with the State of Alabama, and with those sureties on his official bond who had compromised and settled with the State during the administration of Governor Joseph F. Johnston their liabilities as such sureties. In consideration of these statements and to expedite the collection of the State's demand, Your Excellency, the Auditor and myself, agreed on the 15th of October last, to take the principle of the debt with five per cent. interest thereon and all costs and expenses in full payment and satisfaction of the State's demand, to-wit, the sum of \$21,051.59; and it was further agreed that this amount should carry interest at the rate of five per cent per annum until paid in full. A copy of this agreement is herein incorporated as Exhibit "A." Suffice it to say in conclusion on this point that as soon as the administrators can audit this account this debt to the State will be first paid by them; and in my judgment there is no doubt of its speedy collection—very probably by the 28th of this month.

OPINIONS, REMARKS AND SUGGESTIONS.

In the case of State vs. Sanford Jacobi on a writ of error to the Supreme Court of the United States it was sought under the 14th amendment of the Constitution of the United States, to review the ruling of the nisi prius court, and affirmed by the Supreme Court of the State and which since the decision of Lowe vs. State, 86 Ala., 52, has been the settled law of the State as to the admissibility of the testimony on a former trial of a witness shown to be without the jurisdiction of the court, whether permanently absent from the State, or for such an indefinite time as that his return is simply conjectural. I presented the case for the State in an oral argument and printed brief and the contention of the State was sustained and the writ of error dismissed.

This biennial report shows an increased number of prosecutions for the offense of carrying concealed about the person the weapons inhibited by the statute. I am inclined to think that this increase does not show a greater prevalence of the crime, but rather more diligent enquiry into and more vigorous prosecutions of this offense, and a healthier public sentiment as to its suppression and punishment. To correct this dangerous and menacing habit there should be certainly adequate punishment and legislation should be so framed as to deter the lawless and yet not render the law-abiding citizen, defenseless against the attacks of the desperate and reckless highway robber, or subject him to the objectionable notoriety of carrying these weapons openly and conspicuously. Several bills will be introduced in the Legislature on this subject, which have received my consideration and I am inclined to approve, with some amendments, the one prepared by Hon. Felix Blackburn, a representative from Jefferson county, and endorsed by Hon. Samuel Greene, senior judge of the Criminal Court of Jefferson county; but I shall refrain from making any further "suggestions tending to the suppression of crime and the improvement of the criminal administration" of the law, as I have not had an opportunity to confer with my successor, the Hon. Massey Wilson, and ascertain his views, who will enter upon the discharge of the duties of Attorney

General before any legislation on the subject can be considered by the Legislature.

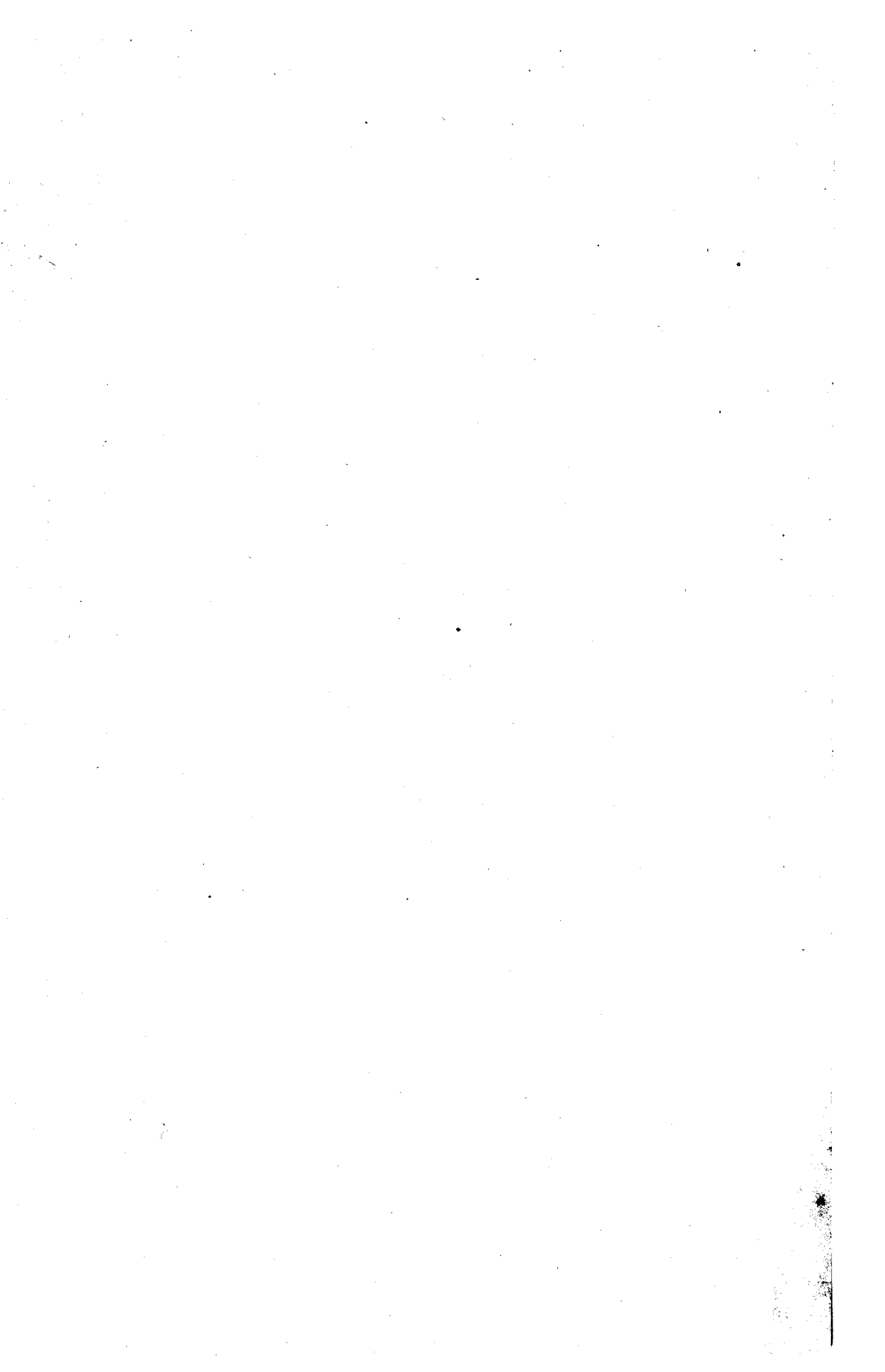
I respectfully refer to my first report in explanation of the one case of punishment by whipping under the special statute for the county of Mobile.

I have in the last two years rendered one hundred and fifty verbal opinions to officials at the Capitol and one hundred and eighty-seven opinions in writing. This report contains a number of these written opinions which may be of interest and benefit to officials and the public at large.

Allow me simply and sincerely at the close of my two terms of office, to return my thanks for the courtesy and consideration given me by the officials and employees with whom I have had most pleasant, personal and official relations.

Most respectfully,

CHAS. G. BROWN,
Attorney General.



CRIMINAL BUSINESS IN THE SUPREME COURT.

During the two years covered by this report 225 criminal cases were brought to the Supreme Court for review. Of this number 163 were affirmed or dismissed, and 62 reversed.

The following comparative statement is submitted to show the volume, during recent years, of this character of business in the Supreme Court.

In 1885-86, 148 appeals, 90 affirmed or dismissed, 58 reversed.

In 1887-88, 117 appeals, 72 affirmed or dismissed, 45 reversed.

In 1889-90, 189 appeals, 110 affirmed or dismissed, 79 reversed.

In 1891-92, 185 appeals, 112 affirmed or dismissed, 73 reversed.

In 1893-94, 230 appeals, 124 affirmed or dismissed, 106 reversed.

In 1895-96, 263 appeals, 158 affirmed or dismissed, 105 reversed.

In 1897-98, 231 appeals, 150 affirmed or dismissed, 81 reversed.

In 1899-90, 189 appeals, 134 affirmed or dismissed, 54 reversed.

In 1901-02, 225 appeals, 163 affirmed or dismissed, 62 reversed.

The proportion of reversals was as follows:

In 1885-86, 39 per cent.; in 1887-88, 38 per cent.; in 1889-90, 42 per cent.; in 1891-92, 39 per cent.; in 1893-94, 46 per cent.; in 1895-96, 40 per cent.; in 1897-98, 35 per cent.; in 1899-1900, 28 per cent.; and in 1900-1902, 28 per cent.

The following statement shows the collections made by this department from the first day of October, 1900, to the first day of October, 1902.

1900.

Oct. 9, from Morgan Co. Bld. & Loan Assn. Com. \$92 67

Nov. 7, from W. J. Boykin, attorney for sureties on
bond of H. Ben Ferrell, ex-sheriff of Russell county 450 00

Nov. 12, from Three River Stock & Lumber Co., compromise	81 90
Nov. 13, from F. C. Randolph, ex-Probate Judge, Montgomery county	400 00
Nov. 13, from Fruitdale Land Co., compromise	178 56
Nov. 17, from E. E. Lee et al, 16th section note . . .	353 32
Nov. 22, from B. G. Kelley, et al., 16th section note	174 06
Nov. 24, from Natl. Ry. Bldg. & Loan Asso., com- promise	89 26
Dec. 5, from J. T. Hamiter, ex-sheriff Pickens county, com.	77 00
1901.	
Jan. 9, from J. J. Smith, ex-clerk Clay Circuit Court	6 25
Jan. 24, from B. G. Kelly, et al., 16th section note	124 61
Feb. 28, from J. Z. Hendley, ex-tax collector Henry county and sureties on official bond	938 25
March 15, from W. W. Waite, ex-sheriff Clarke county, compromise	108 24
March 16, from J. W. Moses et al., 16th section note	103 50
March 16, from Wm. Sterne, ex-tax collector, Jack- son county	79 25
March 29, from Sterling A. Wood, ex-clerk Supreme Court com	52 55
March 30, from Q. S. Adams, tax collector Marengo county, com	100 00
May 3, from J. B. Milhous, ex-circuit clerk Dallas county	46 55
May 18, from Chewacla Lime Works, hire of con- victs	326 40
June 14, from Anna Henderson and Mary Carlisle, compromise	500 00
Dec. 3, from Montgomery Street Fair Assn., comp.	100 00
Dec. 9, from Freeman S. Jenkins, et al., 16th sec- tion note	43 25
Dec. 13, from Freeman S. Jenkins, et al., 16th sec- tion note	9 15
Dec. 25, from F. G. Sheppard, et al., 16th section note	522 63
1902.	
Jan. 31, from Teague & Sons, compromise	290 00

Feb. 5, from F. G. Sheppard, et al., 16th section note	465 97
Feb. 9, from J. S. Fowler, ex-clerk Morgan county, compromise	49 60
Feb. 14, from Chewacla Lime Works, hire of con- victs	163 10
Feb. 19, from U. S. Fidelity & Guaranty Co., surety for P. A. Dunn, ex-tax collector for Au- tauga county, compromise	2497 23
Total	<u>\$8423 30</u>

LIST OF CIRCUIT, CITY AND COUNTY SOLICITORS.

First CircuitHon. C. W. Harrison, Demopolis, Ala.
 Second Circuit.....Hon. C. R. Bricken, Luverne, Ala.
 Third Circuit.....Hon. C. A. L. Samford, Opelika, Ala.
 Fourth Circuit.....Hon. W. W. Quarles, Selma, Ala.
 Fifth Circuit.....Hon. S. L. Brewer, Tuskegee, Ala.
 Sixth Circuit.....Hon. W. B. Oliver, Tuscaloosa, Ala.
 Seventh Circuit..Hon. Joseph B. Graham, Talladega, Ala.
 Eighth Circuit.....Hon. R. H. Lowe, Huntsville, Ala.
 Ninth Circuit.....Hon. R. C. Hunt, Fort Payne, Ala.
 Tenth Circuit....Hon. C. W. Ferguson, Birmingham, Ala.
 Eleventh Circuit..Hon. Wm. H. Sawtelle, Tuscumbia, Ala.
 Twelfth Circuit.....Hon. Richard H. Parks, Troy, Ala.
 Thirteenth Circuit..Hon. John W. McAlpine, Mobile, Ala.
 City Court of Anniston, Hon. W. C. Tunstall, Jr., Annis-
 ton, Ala.

City Court of Bessemer, Hon. James A. Estes, Bessemer,
 Ala.

City Court of Gadsden, Hon. Woodson J. Martin, Gadsden,
 Ala.

City Court of Mobile,-Hon. James H. Webb, Mobile, Ala.

City Court of Montgomery, Hon. Tennent Lomax, Mont-
 gomery, Ala.

City Court of Selma, Hon. W. W. Quarles, Selma, Ala.

City Court of Talladega, Hon. Alexander M. Garber, Talladega, Ala.

County Court of Clay, Hon. John J. Haynes, Ashland, Ala.

County Court of Cleburne, Hon. W. B. Merrill, Edwardsville, Ala.

County Court of Coffee, Hon. Moses J. Lee, Elba, Ala.

County Court of Jackson, Hon. John F. Proctor, Scottsboro, Ala.

County Court of Lawrence, Hon. D. C. Almon, Moulton, Ala.

County Court of Madison, Hon. Tancred Betts, Huntsville, Ala.

County Court of Montgomery, Hon. Tennent Lomax, Montgomery, Ala.

County Court of Morgan, Hon. John C. Eyester, New Decatur, Ala.

County Court of Sumter, Hon. James A. Mitchell, Livingston, Ala.

County Court of Tuscaloosa, Hon. Henry B. Foster, Tuscaloosa, Ala.

Criminal Court of Jefferson County, Hon. H. P. Heflin, Birmingham, Ala.

Criminal Court of Pike County, Hon. E. R. Brannen, Troy, Ala.

GENERAL STATEMENT.

**SHOWING CHARACTER AND RESULTS OF PROSECU-
TIONS IN THE ENTIRE STATE FOR TWO
YEARS ENDING SEPT. 30, 1902.**

GENERAL STATEMENT.

Showing Character and Results of Prosecutions in the Entire State for Two Years Ending Sept. 30th, 1902.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Escape.	Fines remitted.	Forfeiture of bond.	Insane Asylum.	Pardoned.	Reformatory.	Whipped out.	
						Death.	Penitentiary.	Hard labor.	Jail.										
Abandoning family	6	3	1	2	1	2	...	...	...	3	...	...	...	...	...	...	...	...	...
Abduction	3	1	1	2	1	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Abusive language	919	531	152	206	30	30	...	...	...	452	19	...	...	...	1	...	...	...	...
Accessory before fact	1	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Adultery and fornication	228	99	30	85	14	14	...	...	...	65	32	...	...	2	...	...	...	...	...
Affray	89	70	4	12	3	3	...	...	...	62	8	...	...	...	...	...	...	...	...
Aiding escape	2	...	...	2	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Aiding felon to escape	2	...	...	2	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Aiding prisoner to escape	7	5	...	1	1	1	...	...	2	...	...	...	...	...	...	...	...	...	...
Allowing stock to run at large	8	4	4	...	...	...	...	...	...	4	...	...	...	...	...	...	...	...	...
Altering mark or brand	3	1	1	1	1	1	...	...	...	1	...	...	...	...	...	...	...	...	...
Appeals, Mayor and Aldermen, Birmingham	58	10	17	14	17	17	...	...	...	9	1	...	...	...	...	...	...	...	...
Appeals, Mayor and Council, Ensley	9	8	...	1	1	1	...	...	...	8	...	...	...	...	...	...	...	...	...
Appeals, Police Court, Birmingham	62	4	15	25	18	18	...	...	...	4	...	...	...	...	...	...	...	...	...
Appeals, Police Court, Ensley	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Arson, first degree	8	4	3	...	1	1	...	...	4	...	...	...	...	...	...	...	...	...	...
Arson, second degree	49	18	14	16	1	1	...	...	17	1	...	...	...	...	...	...	...	...	...
Arson, third degree	13	5	4	4	...	...	...	...	...	4	...	...	...	...	...	...	...	...	...
Assault	180	118	14	46	2	2	...	...	...	26	4	91	...	...	...	...	...	...	...
Assault and battery	869	646	109	94	20	20	...	...	...	152	65	430	...	...	...	...	...	...	...

Assault and battery with weapon	640	452	89	75	24	4	128	16	304	1	...	...
Assault with weapon	336	252	43	27	5	...	53	...	199	...	...	...
Assault with intent to murder	428	209	89	98	32	164	42	1	...	1	...	1
Assault with intent to ravish	38	25	7	4	2	...	...	...	...	...	...	...
Assault with intent to rob	15	10	4	1	...	...	2	...	...	...	...	...
Attempt at arson	5	4	1	...	...	...	4	...	...	...	...	...
Attempt at burglary	10	10	...	...	...	...	8	1	1	...	...	...
Attempt at buying seed cotton	1	1	...	...	...	...	...	...	...	...	...	...
Attempt at felony	3	3	...	...	...	...	1	...	2	...	...	...
Attempt at forgery	1	1	...	...	...	...	...	...	...	...	...	...
Attempt at grand larceny	5	4	1	...	...	...	...	1	3	...	...	...
Attempt at petit larceny	1	1	...	...	...	...	...	...	1	...	...	...
Attempt at sodomy	2	2	...	...	...	...	2	...	...	...	...	...
Attempt to beat way on train	12	10	...	2	...	...	9	...	1	...	...	...
Attempt to escape jail	1	1	...	...	...	...	...	...	1	...	...	...
Attempt to poison	7	4	3	...	...	...	4	...	...	...	...	...
Attempt to wreck train	1	1	...	...	...	...	1	...	...	...	...	...
Pass'rdv	34	10	6	10	8	...	5	...	5	...	...	...
Reas'ialty	3	1	1	1	1	...	1	...	...	...	...	...
Peat'ng way on train	4	2	1	1	1	...	1	...	1	...	...	...
Pet'ng at cards	30	26	1	3	...	...	6	...	20	...	...	...
Pet'ng at dice	3	3	...	...	...	...	1	...	2	...	...	...
Pet'ng at games	6	5	...	1	...	...	...	...	5	...	...	...
Pet'ng in public places	1	1	...	...	...	...	...	...	1	...	...	...
Pet'ng with minor	3	...	...	3	...	...	...	...	...	...	...	...
Pigamous adultery	1	1	...	...	...	...	...	...	...	...	...	...
Rigamy	24	16	...	7	1	15	1	...	...	...	...	...
Breach of peace	6	...	1	5	...	...	...	...	...	...	...	...
Breaking fence	34	2	5	7	...	...	...	...	2	...	...	...
Breaking into railroad car	1	1	...	...	...	...	1	...	...	...	...	...
Breaking jail	1	1	...	...	...	...	1	...	...	...	...	...
Bribery	1	...	...	1	...	...	...	...	...	...	...	...
Pring stolen goods into the State	4	4	...	...	...	...	1	3	...	...	...	...
Burglary	473	366	55	41	11	258	107	...	2	...	...	2
Burglary and grand larceny	253	179	33	35	6	106	71	...	...	...	...	2
Burglary from railroad car	2	2	...	...	...	2	...	...	...	...	...	...
Burglary to commit felony	1	1	...	...	...	...	1	...	...	...	...	...

GENERAL STATEMENT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Escapes.	Fines remitted.	Forfeiture of bond.	Insane Asylum.	Pardoned.	Reformatory.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.									
Burning fence..	5	2	3							2								
Burning insured house	1	1						1										
Burning woods	1	1																
Camp hunting in Winston county.	1	1																
Carnal knowledge, girl over 10	7	6	1		1			4	1	1								
Carnal knowledge, girl under 10	11	10			1		10											
Carrying on lottery	12	8	1	3						8								
Carrying whiskey into jail	1	1			1													
Cock fighting	1	1								1								
Common prostitute	6	4	1	1				2	1	1								
Compound ng felony	3		2	11														
Concealed weapons	1349	835	240	232	42			313	10	511				1				
Concealing stolen property	4	2	2															
Conspiracy	4	3	1							3								
Contempt	15	14		1						14								
Crime against nature	5	3	1	1			1	2										
Cruelty to animals	26	13	5	7	1			1		12								
Cutting timber on anothers land	1	1								1								
Dealing in pistol cartridges	1		1															
Decoying away child	9	2	2	4	1				1									
Defacing building	14	9	3	2				1		8								
Defacing church	2	1	1							1								

[illegible]

GENERAL STATEMENT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Escapes.	Fines remitted.	Forfeiture of bond.	Lazaretto Asylum.	Paroled.	Reformatory.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.									
False pretense..	150	64	49	45	12	...	10	16	2	36	1	...	...	...	...	...	...	...
Felonious adultery..	2	2	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Flagging train unlawfully	1	1	...	...	...	...	...	1	...	1	...	...	...	...	...	...	...	...
Forgeries..	31	31	...	...	...	...	...	...	...	31	...	...	...	...	...	...	...	...
Forgery, first degree	3	2	...	1	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Forgery, second degree	107	55	12	31	9	...	37	16	...	...	...	...	...	...	2	...	...	...
Forgery, third degree	21	18	1	1	1	...	9	4	1	4	...	...	...	...	...	...	...	...
Fraudulent conveyance	2	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Gaming	602	404	58	132	8	...	...	76	11	317	...	...	...	...	...	...	...	...
Gaming in public places.	8	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...	...	...
Gaming on Sunday..	35	24	3	7	1	...	...	1	...	23	...	...	...	...	...	...	...	...
Giving liquor to minor	4	3	1	...	...	...	...	...	...	3	...	...	...	...	...	...	...	...
Harboring escaped convict	1	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Horse racing on public road	3	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...	...	...
Illegal voting	4	...	...	4	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Imitating trade mark	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Impeachment	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Incest	9	7	2	...	...	...	6	1	...	...	...	...	...	...	...	...	...	...
Indecent exposure of person.	4	3	...	1	...	...	...	1	...	2	...	...	...	...	...	...	...	...
Infanticide..	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
In 'uring county jail.	1	1	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...
Injuring mill dam	1	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...

Injuring property	2				2				
Injuring public road	2	2						2	
Injury to realty	1	1						1	
In imitation	1		1						
Injury to church	1	1							
Injury to off train	6	4	1		1				
Keeping bawdy house	8	1			2			2	
Keeping billiard table	2	2						2	
Keeping bowling alley	1								
Keeping domino table	1				1				
Keeping disorderly house	1				1				
Keeping ferry without license	1	1						1	
Keeping gaming table	23	3	12	7	1				
Keeping house of prostitution	2					2		1	
Keeping open store	59	47	2	7	3				
keeping sheep-killing dog	5	1		4				47	
Kidnaping	2			2					
Killing fish	4	1			3				
Larceny, grand	1198	787	144	160	37			1	
Larceny, petit	689	498	82	82	20			81	1
Libel	3	1		2				198	40
Maintaining nuisance	1	1						264	1
Majestious injury, property	1								
Malicious mischief	40	14	11	11	4				
Malicious obstruction of railroad track	2				1			9	1
Manslaughter, first degree	81	75	5	1					
Manslaughter, second degree	39	26	2	4				61	13
Marking animal to defraud	3	2	1					8	3
Mavhem	1							1	
Medicine, practicing without license	16	11	3	1	1				
Meeting together to commit breach of peace	1							1	
Miscegenation	3	1							
Moving seed cotton	1							1	
Murder, first degree	160	100	50	22	8			28	81
Murder, second degree	180	120	51	12	5			119	1
Negligent escape	2		2	1	1				
Nightwalking	69	32	2	33	2			23	

GENERAL STATEMENT—Continued.

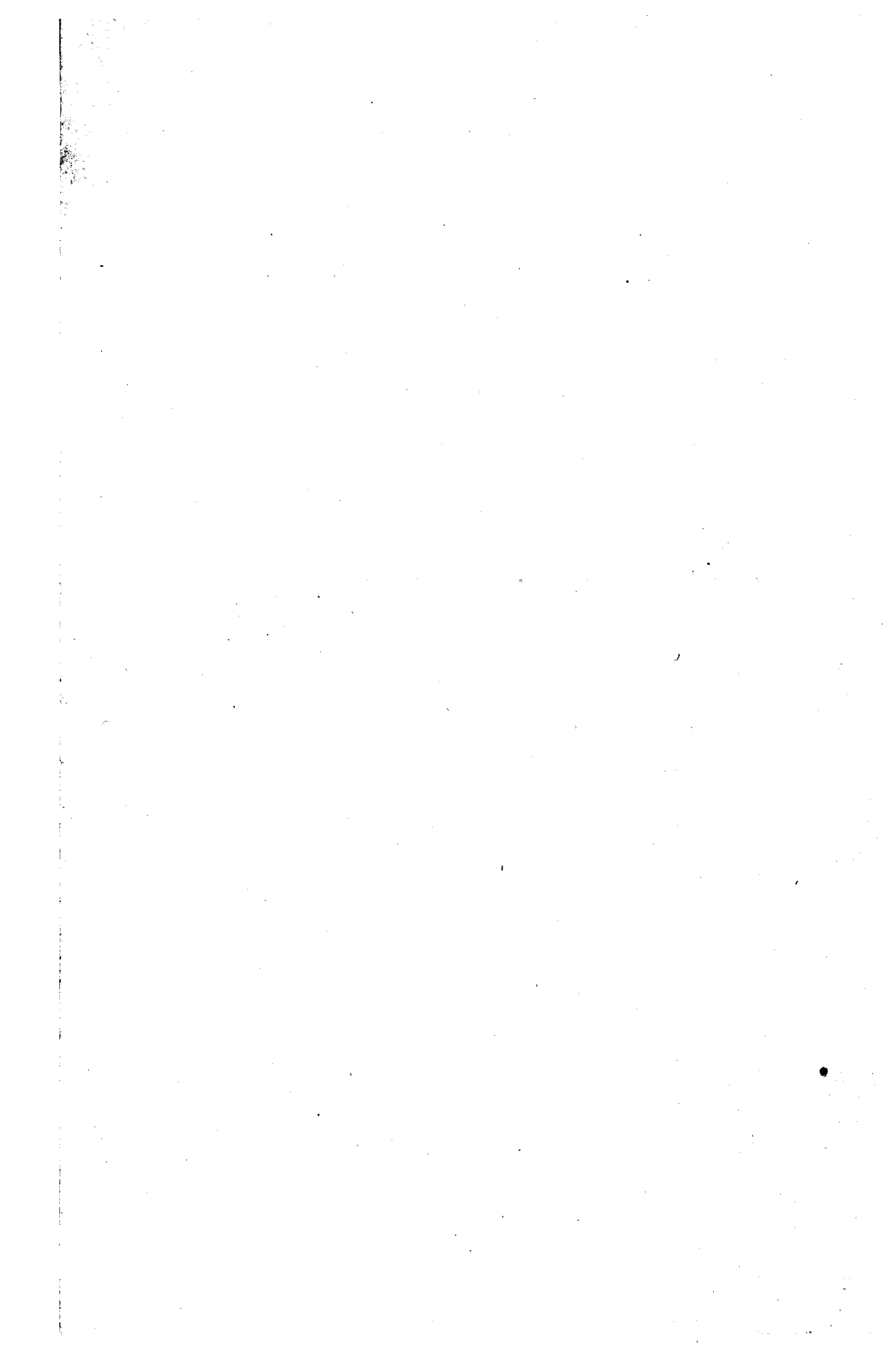
Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Escapes.	Fines remitted.	Forfeiture of bond.	Insane Asylum.	Pardoned.	Reformatory.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.									
Obstructing public justice	2	2								2								
Obstructing public road	7	2	3		2					2								
Obstructing railroad	7	5	1		1		5											
Obstructing stream	2			2														
Obtaining board under false pretense	1			1														
Obtaining goods, false pretense	6	3	1	2			1	1		1								
Obtaining money, false pretense	11	7		4			2	1		4								
Obtaining property, false pretense	1			1														
Offer to bribe grand juror	1	1					1											
Operating slot machine	5			5														
Peace proceedings	1			1														
Peddling, no license	1			1														
Perjury	44	8	12	16	8		6	2										
Permitting convict to go at large	1		1															
Permitting gaming on premises	2	1		1						1								
Permitting minor to hazard money	2			2														
Permitting minor to play pool	4	3		1						3								
Playing cards in public places	54	44	2	7	1			2		34								
Playing cards on Sunday	61	48	2	11				1		47								
Playing dice in public places	1	1						1										
Poisoning well	2	2					2											
Presenting gun	89	49	18	20	2			5		44								

[illegible]

GENERAL STATEMENT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Fines remitted.	Fines remitted.	Insane Asylum.	Paroled.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.							
Sunday breaking	30	27	1	2				1		26						
Taking illegal fees	1			1												
Taking orders, prohibition district	13	9	1	3						9						
Interfering with railroad track	1		1													
Temporary use, animal	9	7	2					3	1	3						
Temporary use, property	7	5	1	1				1		4						
Throwing at railroad train	6	3	1	2				2		1						
Trading mortgaged property	1			1												
Train wrecking	1	1					1									
Train wrecking	1															
Trapping fish	1															
Trespass	43	8	13	22						8						
Trespass after warning	104	23	26	50	5			8	1	12		2				
Trespass by cutting timber	4		3		1											
Trespass by stock	5															
Trespass to realty	4	3	1							2						
Trespass to realty	7	6		1				4		2						
Unlawful assembly	1															
Unlawfully detaining child	1															
Unlawfully injuring animal	52	30	11	11				1		29						
Unlawfully killing animal	9	4	3	2				2		2						
Unlawfully riding train	50	45	2	3				39		6						
Unlawfully using animal	4		4													
Using girl for prostitute	3	1		2			1									

CITY COURT OF ANNISTON.



CITY COURT OF ANNISTON.

Hon. W. C. Tunstall, Jr., Solicitor, Anniston, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	6	3	2	1	...	...	...	1	...	2
Adultery and fornication	1	...	1	...	...	...	...	...	...	...
Arson, second degree	1	...	...	1	...	...	...	...	...	...
Assault and battery	5	5	...	...	...	...	...	...	...	5
Assault with weapon	17	9	6	2	...	...	...	3	...	6
Assault with intent to murder	2	1	1	...	...	...	1	...	...	...
Attempt to commit sodomy	1	1	...	...	...	...	...	1	...	...
Attempt to poison	2	2	...	...	...	...	2	...	...	...
Bastardy	1	...	...	1	...	...	...	...	...	...
Bigamy	1	1	...	...	...	...	1	...	...	...
Bribery	1	...	...	1	...	...	...	...	...	...
Burglary	8	7	1	...	...	...	7	...	...	...
Burglary and grand larceny	4	3	...	1	...	...	3	...	...	...
Concealed weapons	12	6	5	1	...	...	...	2	...	4
Dealing in pistol cartridges	1	...	1	...	...	...	...	...	...	...
Disposing of mortgaged property	1	...	...	1	...	...	...	...	...	...
Embezzlement	1	1	...	...	...	...	1	...	...	...
Employing minor in saloon	1	...	1	...	...	...	...	...	...	...
Forgery, second degree	5	3	1	1	...	...	3	...	...	...
Gaming	4	4	...	...	...	...	...	1	...	3
Keeping gaming table	1	1	...	...	...	...	1	...	...	...
Keeping open store	2	2	...	...	...	...	...	...	...	2
Larceny, grand	40	33	4	3	...	...	33	...	...	...
Larceny, petit	8	5	...	3	...	...	...	4	...	1
Manslaughter, first degree	3	2	1	...	...	...	2	...	...	...
Manslaughter, second degree	1	1	...	...	...	...	...	...	1	...
Murder, second degree	5	2	2	1	...	...	2	...	...	...
Obtaining goods, false pretense	2	2	...	...	...	...	...	1	...	1
Obtaining money, false pretense	1	1	...	...	...	...	...	1	...	...
Perjury	4	...	...	4	...	...	...	...	...	...
Playing cards on Sunday	1	1	...	...	...	...	...	...	...	1
Presenting gun	2	1	1	...	...	...	...	1	...	...
Rape	2	1	1	...	...	...	1	...	...	...
Robbery	1	...	...	1	...	...	...	...	...	...
Selling liquor to minor	4	2	1	1	...	...	...	...	...	2
Selling liquor without license	15	6	5	4	...	...	...	3	...	3
Selling mortgaged property	1	1	...	...	...	...	...	...	...	1
Shooting at railroad car	1	1	...	...	...	...	1	...	...	...

CITY COURT OF ANNISTON—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Shooting on or across public road	2	1	...	1	...	...	...	...	...	1
Shooting on Sunday	1	1	...	...	...	...	...	...	...	1
Trespass after warning	1	1	...	...	...	...	...	...	...	1
Unlawfully riding on train	1	1	...	...	...	...	...	...	...	1
Wilfully leaving gate open	1	...	...	1	...	...	...	...	...	...
Total	175	112	34	29	...	...	58	18	1	35

Percentage of convictions in cases disposed of, 64.

Predominant crime, Grand Larceny.

CITY COURT OF BESSEMER.

CITY COURT OF BESSEMER.

Hon. James A. Estes, Solicitor, Bessemer, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive Language	85	32	32	18	3	...	...	...	1	31
Adultery and fornication	7	2	5	...	...	...	...	...	...	2
Arson, second degree	9	...	2	7	...	...	...	...	...	...
Assault	3	1	2	...	...	...	...	...	...	1
Assault and battery	13	6	6	1	...	...	...	...	...	6
Assault and battery with weapon	60	26	19	8	7	...	...	3	1	22
Assault with weapon	21	10	9	1	1	...	...	...	...	10
Assault with intent to murder....	1	...	1	...	...	...	...	...	...	...
Concealed weapons	25	16	7	1	1	...	...	...	...	16
Contempt	1	1	...	...	...	...	...	...	...	1
Decoying away child	1	...	...	1	...	...	...	...	...	...
Defacing church	1	...	1	...	...	...	...	...	...	...
Defamation	2	...	2	...	...	...	...	...	...	...
Disposing of property unlawfully.	2	...	1	1	...	...	...	...	...	...
Disturbing religious worship	2	1	1	...	...	...	...	...	...	1
Embezzlement	1	...	1	...	...	...	...	...	...	...
Engaging business without license	2	...	1	1	...	...	...	...	...	...
False pretense	5	1	4	...	...	...	...	...	...	1
Forgery, second degree.....	1	...	1	...	...	...	...	...	...	...
Gaming	16	8	7	1	...	...	...	...	...	8
Injuring mill dam	1	1	...	...	...	...	...	...	...	1
Keeping house of prostitution....	1	1	...	...	...	...	...	...	...	1
Keeping open store	14	6	1	4	3	...	...	...	...	6
Larceny, grand	2	...	2	...	...	...	...	...	...	...
Larceny, petit	3	...	3	...	...	...	...	...	...	...
Libel	1	1	...	...	...	...	...	...	...	1
Malicious mischief	4	1	3	...	...	...	...	...	...	1
Obstructing public road	2	...	2	...	...	...	...	...	...	...
Obstructing stream	1	...	...	1	...	...	...	...	...	...
Peace proceedings	1	...	...	1	...	...	...	...	...	...
Perjury	1	...	...	...	1	...	...	...	...	...
Presenting gun	5	2	2	...	1	...	...	...	...	2
Public drunkenness	2	1	1	...	...	...	...	...	...	2
Raffing	1	1	...	...	...	...	...	...	...	1
Sending threatening letter	2	1	...	1	...	...	...	...	...	1
Shooting on or across public road.	2	1	1	...	...	...	...	...	...	1
Trespass	5	1	2	2	...	...	...	...	...	1
Trespass after warning	4	...	1	2	1	...	...	...	...	...

CITY COURT OF BESSEMER—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Using girl for prostitute	1	...	...	1	...	...	...	...	...	...
Vagrancy	5	4	...	...	1	...	...	...	...	4
Violating election law	1	...	...	1	...	...	...	...	...	...
Violating pawn brokers law.....	1	...	1	...	...	...	...	...	...	...
Violating revenue law	14	6	3	5	...	...	...	...	...	6
Total	332	131	124	58	19	...	...	3	2	126

Percentage of convictions in cases disposed of, 39.

Predominant crime, Abusive Language.

CITY COURT OF GADSDEN.

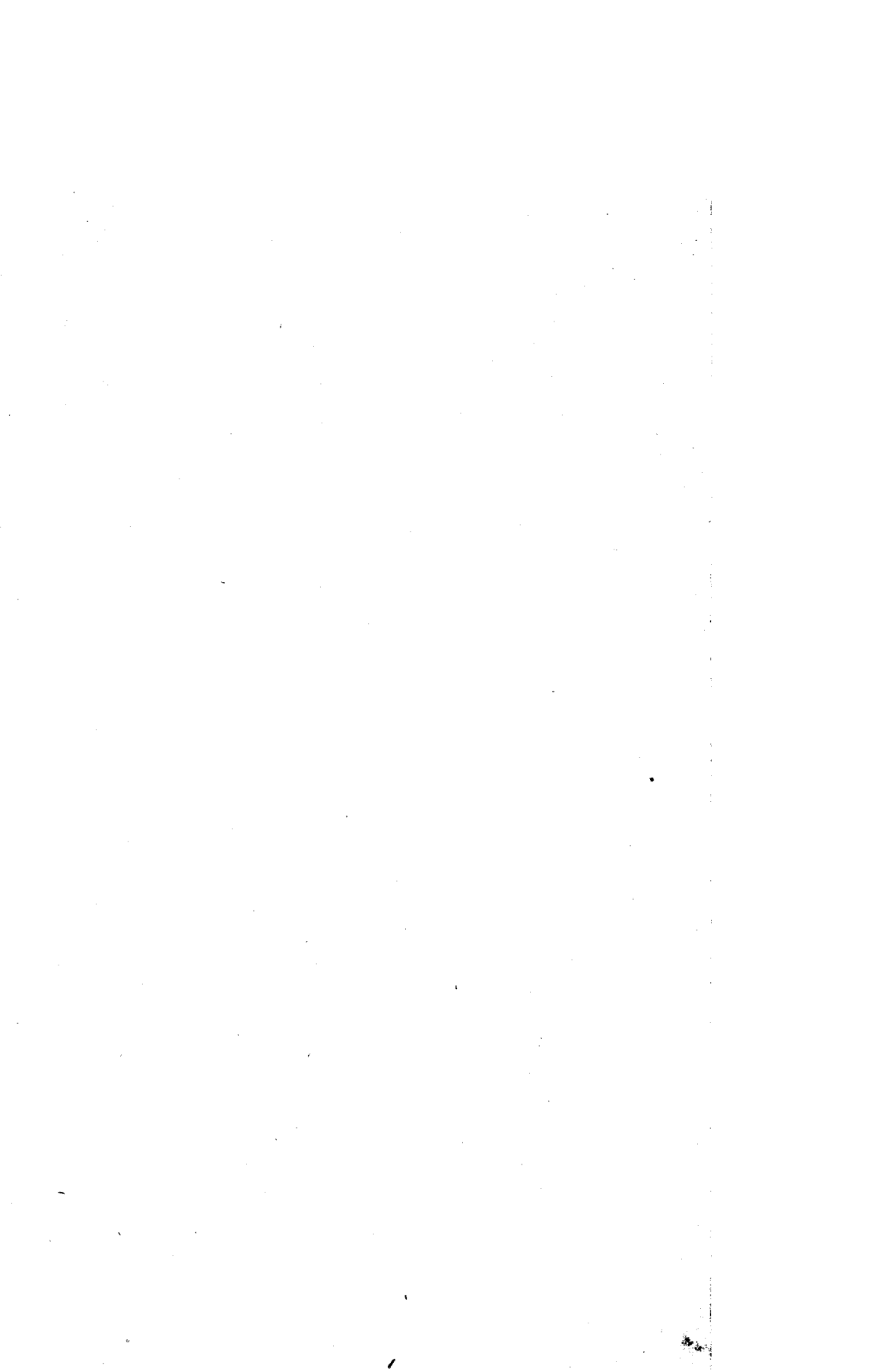
CITY COURT OF GADSDEN.

Hon. Woodson J. Martin, Solicitor, Gadsden, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Reform School.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive language	15	13	...	2	...	...	...	1	...	12	...
Adultery and fornication	3	2	1	...	...	...	...	1	...	1	...
Affray	3	2	...	1	...	...	...	...	...	...	...
Arson, second degree	1	1	...	...	...	...	...	1	...	...	...
Assault and battery	10	6	1	2	1	...	...	1	...	...	...
Assault with weapon	23	17	5	1	...	...	...	4	...	13	...
Assault with intent to murder	6	5	1	...	...	...	2	3	...	...	...
Assault with intent to ravish	3	1	...	1	1	...	1	...	...	...	...
Assault with intent to rob....	1	...	1	...	...	...	...	...	...	...	...
Breaking into car	1	1	...	...	...	...	...	1	...	...	...
Burglary and grand larceny.	5	4	1	...	...	...	...	2	...	...	2
Concealed weapons	23	15	6	2	...	...	...	2	...	13	...
Crime against nature	1	1	...	...	...	...	...	1	...	...	...
Defamation	2	2	...	...	...	...	...	...	...	2	...
Disposing mortgaged property	1	1	...	...	...	...	...	...	...	1	...
Disturbing religious worship.	14	9	2	3	...	...	...	...	...	9	...
Disturbing school	2	2	...	...	...	...	...	...	...	2	...
Disturbing women	12	9	...	3	...	...	...	...	...	9	...
False pretense	1	1	...	...	...	...	...	1	...	...	...
Forgery, second degree	1	...	1	...	...	...	...	...	...	...	...
Forgery, third degree	2	1	...	1	...	...	...	1	...	...	...
Gaming	8	5	1	2	...	...	...	3	...	2	...
Indecent exposure of person..	1	...	1	...	...	...	...	...	...	...	...
Injury to realty	1	1	...	...	...	...	...	...	...	1	...
Larceny, grand	12	9	1	...	2	...	...	9	...	...	...
Larceny, petit	4	4	...	...	...	...	...	3	1	...	...
Medicine, prac. without license	1	1	...	...	...	...	...	...	...	1	...
Murder, first degree	1	1	...	...	...	...	1	...	...	...	...
Murder, second degree	4	1	3	...	...	...	1	...	...	...	...
Perjury	2	...	2	...	...	...	...	...	...	...	...
Permit stock to run at large	1	...	1	...	...	...	...	...	...	...	...
Presenting gun	2	2	...	...	...	...	...	...	...	2	...
Public drunkenness	1	1	...	...	...	...	...	...	...	1	...
Seduction	1	...	1	...	...	...	...	...	...	...	...
Selling liquor to minor.....	4	3	1	...	...	...	...	...	...	3	...
Selling liquor without license.	6	5	1	...	...	...	...	3	...	2	...
Selling mortgaged property....	1	...	1	...	...	...	...	...	...	...	...
Shooting on or across road...	6	4	2	...	...	...	...	1	...	3	...
Unlawful injury to animal....	1	1	...	...	...	...	...	...	...	1	...
Violating stock law	5	3	2	...	...	...	...	...	...	3	...
Total	192	134	32	20	6	...	5	38	1	88	2

Percentage of convictions in cases disposed of, 70.

Predominant crime, Assault With Weapon, and Concealed Weapons.



CITY COURT OF MOBILE.

CITY COURT OF MOBILE.

Hon. James H. Webb, Solicitor, Mobile, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittal.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Reform School.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.			
Abusive language	23	19	3	1	...	...	...	5	10	4	...	...
Affray	1	1	...	...	...	...	...	...	...	1	...	...
Arson, first degree	2	1	1	...	...	...	1	...	...	...	...	...
Arson, second degree	1	...	...	1	...	...	...	...	...	...	...	...
Arson, third degree	1	1	...	...	...	...	...	1	...	...	...	...
Assault and battery	129	118	6	1	4	...	...	*36	64	19	...	...
Assault with intent to kill	23	19	2	1	1	...	8	9	1	...	1	...
Assault, intent to ravish.	2	1	1	...	...	...	1	...	...	...	...	...
Assault, intent to rob.	1	1	...	...	...	...	1	...	...	...	...	...
Attempt at burglary.	1	1	...	...	...	...	...	...	1	...	...	...
Attempt at sodomy.	1	1	...	...	...	...	...	1	...	...	...	...
Breaking fence	1	...	1	...	...	...	...	...	...	...	...	...
Burglary	50	43	5	2	...	...	19	*27	...	...	...	...
Carnal knowledge, girl under 10	1	1	...	...	...	...	1	...	...	...	...	...
Concealed weapons	82	73	7	1	1	...	...	40	9	24	...	...
Cruelty to animals	1	...	...	...	1	...	...	...	...	...	...	...
Disturb'g religious worship	4	...	...	4	...	...	...	...	...	...	...	...
Embezzlement	11	5	4	2	...	...	...	5	...	...	...	...
Engaging in business with- out license	1	1	...	...	...	...	...	...	1	...	...	...
False pretense	1	1	...	...	...	...	1	...	...	...	...	...
Forgery, second degree	17	11	...	6	...	...	5	6	...	...	...	...
Gaming	10	10	...	...	...	...	...	...	9	1	...	...
Keeping gaming table	5	1	2	2	...	...	...	...	1	...	...	...
Larceny, grand	94	72	17	3	2	...	22	50	...	...	...	...
Larceny, petit	27	24	2	1	...	...	11	12	...	...	**1	...
Malicious mischief	2	1	...	...	1	...	...	...	...	1	...	...
Manslaughter, first degree	4	4	...	...	...	...	3	...	1	...	...	...
Mayhem	1	...	...	1	...	...	...	...	...	...	...	...
Murder, first degree	12	10	2	...	1	9	...	...	...	...	...	...
Murder, second degree	3	3	...	...	...	...	3	...	...	...	...	...
Obtaining money under false pretense	1	1	...	...	...	...	1	...	...	...	...	...
Perjury	3	2	1	...	...	...	1	1	...	...	...	...
Permitting convict to go at large	1	...	1	...	...	...	...	...	...	...	...	...
Permitting gaming, etc ...	1	1	...	...	...	...	...	...	...	1	...	...

CITY COURT OF MOBILE—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Reform School.	Whipped out.
						Death.	Penitentiary.	Hard labor.	Jail.			
Permitting minor to hazard money	2	...	...	2	...	...	...	...	...	...	...	...
Playing cards public place	10	10	...	...	...	...	...	...	8	2	...	...
Public drunkenness	2	2	...	...	...	...	...	...	1	1	...	...
Rape	2	1	1	...	...	...	1	...	...	...	...	...
Receiving stolen property ..	9	5	4	...	...	...	1	3	...	1	...	...
Robbery	4	3	1	...	...	...	3	...	...	...	...	...
Seduction	1	1	...	...	...	...	...	1	...	...	...	...
Selling liquor to minor...	3	...	2	...	1	...	...	...	...	...	...	...
Shooting into R. R. train..	1	1	...	...	...	...	1	...	...	...	...	...
Sodomy	2	2	...	...	...	...	...	2	...	...	...	...
Temporary use of animal...	1	1	...	...	...	...	...	...	1	...	...	...
Throwing at railroad train	1	...	1	...	...	...	...	...	...	...	...	...
Trespass after warning ...	1	1	...	...	...	...	...	...	1	...	...	...
Trespass to realty	1	1	...	...	...	...	...	...	1	...	...	...
Violating fish law	1	1	...	...	...	...	...	...	1	...	...	...
Violating revenue law....	21	18	2	1	...	...	...	...	...	18	...	...
Violating Sunday law	19	19	...	...	...	...	...	...	1	18	...	...
Total	599	493	66	29	11	1	81	199	123	91	1	1

Percentage of convictions in cases disposed of, 82.

Predominant crime, Assault and Battery.

**Whipped out under special statute for Mobile county.

*Two defendants in some cases.

CITY COURT OF MONTGOMERY.

CITY COURT OF MONTGOMERY.

Hon. Tennent Lomax, Solicitor, Montgomery, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Escapes.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abandoning family	1	...	...	1	...	...	...	...	...	...	...
Abusive language	11	4	2	5	...	...	...	2	...	2	...
Adultery and fornication	6	...	1	5	...	...	...	...	...	...	...
Affray	3	2	...	...	1	...	...	1	...	1	...
Arson, second degree	1	1	...	...	...	...	1	...	...	...	...
Assault	6	6	...	...	...	...	...	5	...	1	...
Assault and battery	86	58	14	12	2	...	...	30	...	28	...
Assault with intent to murder	52	22	12	12	6	...	22	...	...	...	...
Assault with intent to ravish.	4	4	...	...	...	...	4	...	...	...	...
Assault with intent to rob....	1	1	...	...	...	...	1	...	...	...	...
Attempt at arson	3	2	1	...	...	...	2	...	...	...	...
Attempt to poison	2	1	1	...	...	...	1	...	...	...	...
Bastardy	7	...	2	5	...	...	...	...	...	...	...
Bigamy	1	1	...	...	...	...	1	...	...	...	...
Burglary	14	7	2	3	2	...	6	1	...	...	...
Burglary and grand larceny...	55	40	4	10	1	...	34	6	...	...	...
Carnal knowledge girl under 10	1	1	...	...	...	...	1	...	...	...	...
Carnal knowledge girl over 10	1	1	...	...	...	...	...	1	...	...	...
Concealed weapons	45	30	9	5	1	...	...	19	...	11	...
Crime against nature	2	...	1	1	...	...	...	...	...	...	...
Cruelty to animals	2	2	...	...	...	...	...	1	...	1	...
Defaulting road hand.....	2	...	...	2	...	...	...	...	...	...	...
Disturbing religious worship.	1	1	...	...	...	...	...	...	...	1	...
Embezzlement	4	1	2	1	...	...	1	...	...	...	...
Enticing minor ..	1	1	...	...	...	...	...	1	...	...	...
Escape	2	...	...	1	1	...	...	...	...	...	...
False impersonation	1	...	...	1	...	...	...	...	...	...	...
False pretense	11	6	3	2	...	...	1	2	...	3	...
Felonious adultery	1	1	...	...	...	...	1	...	...	...	...
Forgery, second degree	5	3	...	2	...	...	3	...	...	...	...
Gaming	52	29	5	15	3	...	...	11	...	18	...
Jumping on or off train.....	2	1	1	...	...	...	...	...	...	1	...
Keeping bawdy house	1	1	...	...	...	...	...	...	...	1	...
Keeping bowling alley	1	...	...	1	...	...	...	...	...	...	...
Keeping domino table	1	...	...	1	...	...	...	...	...	...	...
Keeping gaming table	8	...	6	1	1	...	...	...	...	...	...
Larceny, grand	148	109	18	17	4	...	89	19	...	...	1
Larceny, petit	42	34	4	2	2	...	...	24	...	10	...

CITY COURT OF MONTGOMERY—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Escapes.
						Death.	Penitentiary.	Hard labor.	Jail.		
Malicious mischief	3	1	2	...	...	...	...	1	...	...	...
Malicious obstruction railroad.	1	...	...	1	...	...	...	...	...	...	...
Manslaughter, first degree	6	6	...	...	...	...	6	...	...	...	...
Manslaughter, second degree...	2	2	...	...	...	...	...	2	...	...	...
Medicine, prac. without license	1	...	...	...	1	...	...	...	...	...	...
Murder, first degree	9	7	2	...	...	3	4	...	...	...	...
Murder, second degree	22	16	6	...	...	...	15	1	...	...	...
Nightwalking	69	32	2	33	2	...	...	23	...	9	...
Obtaining board false pretense.	1	...	...	1	...	...	...	...	...	...	...
Perjury	2	...	1	1	...	...	...	...	...	...	...
Permit'g gaming, public house	1	...	...	1	...	...	...	...	...	...	...
Presenting gun	4	3	...	1	...	...	...	...	...	3	...
Rape	2	1	...	...	1	...	1	...	...	...	...
Receiving stolen property	6	5	1	...	...	...	...	4	...	1	...
Removing mortgaged property	8	2	4	1	1	...	1	...	...	1	...
Resisting officer	1	...	...	...	1	...	...	...	...	...	...
Retailing	1	1	...	...	...	...	...	...	...	1	...
Robbery	5	3	...	2	...	...	3	...	...	...	...
Selling mortgaged property	4	1	1	2	...	...	...	1	...	...	...
Selling pistol to minor	1	1	...	...	...	...	...	...	...	1	...
Sending threatening letters...	1	...	1	...	...	...	...	...	...	...	...
Sunday breaking	3	1	...	2	...	...	...	...	...	1	...
Trespass after warning	1	...	...	1	...	...	...	...	...	...	...
Unlawful use of animal	4	...	4	...	...	...	...	...	...	...	...
Vagrancy	2	...	1	...	1	...	...	...	...	...	...
Violating contract	1	1	...	...	...	...	...	1	...	...	...
Violating prohibition law	3	1	1	1	...	...	...	...	...	1	...
Violating revenue law	20	9	3	7	1	...	...	...	...	9	...
Total	771	463	117	159	32	3	198	156	...	105	1

Percentage of convictions in cases disposed of, 60.

Predominant crime, Grand Larceny.

CITY COURT OF SELMA.



CITY COURT OF SELMA.

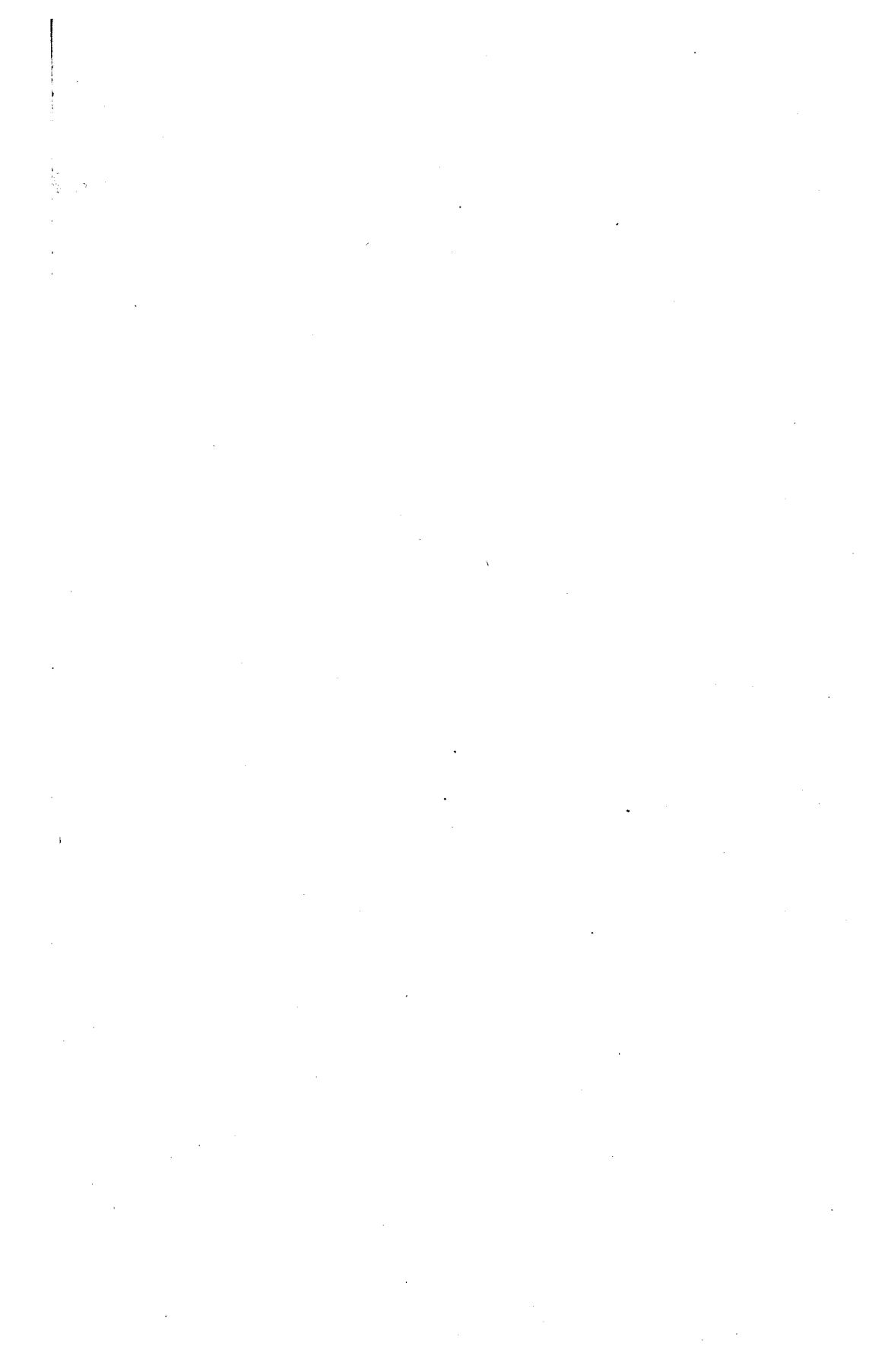
Hon. W. W. Quarles, Solicitor, Selma, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Arson, second degree	1	...	1	...	...	...	...	...	...	...
Assault and battery	1	1	...	...	...	...	...	...	...	1
Assault and battery with weapon	6	6	...	...	...	...	...	4	...	2
Assault with intent to murder	2	1	1	...	...	...	1	...	...	...
Attempt at burglary	1	1	...	...	...	...	...	1	...	...
Burglary	5	5	...	...	...	...	...	5	...	...
Concealed weapons	6	6	...	...	...	...	...	4	...	2
Forgery, second degree.....	2	2	...	...	...	...	...	2	...	...
Larceny, grand	7	6	1	...	...	...	1	5	...	...
Larceny, petit	4	4	...	...	...	...	...	...	*1	4
Manslaughter, first degree	6	6	...	...	...	...	3	3	...	...
Manslaughter, second degree.....	1	1	...	...	...	...	...	...	...	1
Murder, first degree	4	4	...	...	...	2	2	...	...	...
Murder, second degree	2	2	...	...	...	...	2	...	...	...
Removing property under lien....	1	1	...	...	...	...	...	...	...	1
Total	49	46	3	...	...	2	9	24	1	11

Percentage of convictions in cases disposed of, 94.

Predominant crime, Grand Larceny.

*Fined and sentenced to jail.



CITY COURT OF TALLADEGA.



CITY COURT OF TALLADEGA.

Hon. Alex. M. Garber, Solicitor, Talladega, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	8	7	...	1	...	...	...	2	...	5
Adultery and fornication	13	7	1	5	...	...	...	3	...	4
Affray	3	2	...	1	...	...	...	...	...	2
Assault and battery	5	5	...	...	...	...	...	...	...	5
Assault and battery with weapon.	37	29	5	1	2	...	...	9	...	20
Assault with weapon	18	13	1	2	2	...	...	7	...	6
Assault with intent to murder....	9	3	1	3	2	3	...	...	...	...
Assault with intent to rob.....	3	2	1	...	...	2	...	...	...	...
Bastardy	1	...	...	...	1	...	...	...	...	...
Burglary	2	2	...	...	...	2	...	...	...	...
Burglary and grand larceny	1	1	...	...	...	1	...	...	...	...
Concealed weapons	34	24	1	9	...	...	...	9	...	15
Cruelty to animals	1	...	1	...	...	...	...	...	...	...
Defacing building	1	1	...	...	...	...	...	...	...	1
Disposing of property under line..	4	...	1	2	1	...	...	...	...	...
Disturbing religious worship	10	7	3	...	...	...	...	1	...	6
Disturbing women	3	3	...	...	...	...	...	1	...	2
Embezzlement	1	...	1	...	...	...	...	...	...	...
Engaging business without license	2	...	...	2	...	...	...	...	...	...
False personation	1	1	...	...	...	...	...	1	...	...
False pretense	1	...	...	...	1	...	...	...	...	...
Forgery, second degree	3	1	2	...	...	1	...	...	...	...
Gaming	20	18	...	2	...	...	...	5	...	13
Larceny, grand	24	19	2	3	...	...	15	4	...	...
Larceny, petit	7	7	...	...	...	...	...	3	...	4
Manslaughter, first degree	1	1	...	...	...	...	1	...	...	...
Manslaughter, second degree	2	2	...	...	...	...	...	1	...	1
Murder, first degree	6	6	...	...	...	3	3	...	...	...
Murder, second degree	3	2	1	...	...	...	2	...	...	...
Negligent escape	1	...	...	1	...	...	...	...	...	...
Obstructing railroad	1	1	...	...	...	...	1	...	...	...
Public drunkenness	11	9	...	2	...	...	...	2	...	7
Resisting officer	1	1	...	...	...	...	...	...	...	1
Seduction	1	...	...	1	...	...	...	...	...	...
Selling liquor to minor	6	3	...	3	...	...	...	...	...	3
Selling liquor without license	7	4	...	3	...	...	...	2	...	2
Selling mortgaged property	1	1	...	...	...	...	...	...	...	1
Shooting on or across public road	3	3	...	...	...	...	...	...	...	3

CITY COURT OF TALLADEGA—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Trespass after warning	4	...	...	4	...	...	...	...	...	...
Unlawful assembly	7	6	...	1	...	...	...	4	...	2
Unlawfully riding on train	1	...	...	1	...	...	...	...	...	...
Vagrancy	2	...	1	1	...	...	...	...	...	...
Violating Sunday law	17	13	...	4	...	...	...	2	...	11
Total	287	204	22	52	9	3	31	56	...	114

Percentage of convictions in cases disposed of, 71.

Predominant crime, Assault and Battery With Weapon.

COUNTY COURT OF CLAY.



COUNTY COURT OF CLAY.

Hon. John J. Haynes, Solicitor, Ashland, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Escapes.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive language	18	11	3	4	...	...	...	...	...	11	...
Adultery and fornication	1	1	...	...	...	...	...	...	...	1	...
Affray	2	2	...	...	...	...	...	...	...	2	...
Arson, second degree	3	1	1	1	...	...	1	...	...	...	...
Assault	6	4	...	2	...	...	...	...	...	4	...
Assault and battery	7	6	...	1	...	...	...	...	...	6	...
Assault with weapon	23	17	3	2	1	...	...	...	...	17	...
Attempt to wreck train	1	1	...	...	...	...	1	...	...	...	...
Betting at cards	2	2	...	...	...	...	...	...	...	2	...
Bigamy	1	1	...	...	...	...	1	...	...	...	...
Burglary	3	2	1	...	...	...	2	...	...	...	...
Carnal knowledge girl under 10	1	1	...	...	...	...	1	...	...	...	...
Concealed weapons	27	17	8	2	...	...	...	...	...	17	...
Cruelty to animals	2	1	...	1	...	...	...	...	...	1	...
Decoying away child	2	1	...	1	...	...	...	...	1	...	...
Defamation	2	1	...	1	...	...	...	...	...	1	...
Defaulting road overseer	4	1	...	3	...	...	...	...	...	1	...
Disturbing religious worship.	9	8	...	1	...	...	...	...	...	8	...
Indecent exposure of person..	1	1	...	...	...	...	...	...	...	1	...
Keeping open store	1	1	...	...	...	...	...	...	...	1	...
Larceny, grand	4	2	1	1	...	...	2	...	...	...	...
Larceny, petit	4	2	...	2	...	...	...	...	...	2	...
Malicious mischief	1	1	...	...	...	...	...	...	...	1	...
Permit'g stock to run at large	3	2	1	...	...	...	...	...	...	2	...
Presenting gun	2	2	...	...	...	...	...	...	...	2	...
Public drunkenness	21	18	3	...	...	...	...	...	...	18	...
Removing mortgaged property	1	...	...	1	...	...	...	...	...	...	...
Robbery	1	...	...	1	...	...	...	...	...	...	...
Selling liquor without license	15	7	5	3	...	...	...	...	...	7	...
Selling mortgaged property ..	3	1	2	...	...	...	...	...	...	1	...
Shooting on or across public	4	4	...	...	...	...	...	...	...	4	...
road	4	4	...	...	...	...	...	...	...	4	...
Trespass	3	...	...	3	...	...	...	...	...	...	...
Unlawful injury to animals....	2	2	...	...	...	...	...	...	...	2	...
Vagrancy	1	1	...	...	...	...	...	...	...	1	...
Violating contract	1	1	...	...	...	...	...	...	...	...	1
Total	182	123	28	30	1	...	8	...	1	113	1

Percentage of convictions in cases disposed of, 68.

Predominant crime, Concealed Weapons.

COUNTY COURT OF CLEBURNE.

COUNTY COURT OF CLEBURNE.

Hon. W. B. Merrill, Solicitor, Edwardsville, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	19	15	1	1	2	...	...	...	...	15
Adultery and fornication	2	...	...	2	...	...	...	...	...	...
Assault and battery	17	16	1	...	...	...	...	...	...	16
Assault with weapon	17	13	2	2	...	...	...	...	...	13
Assault with intent to murder.....	2	...	1	1	...	...	...	...	...	...
Bastardy	1	1	...	...	...	...	...	...	...	1
Bestiality	1	...	1	...	...	...	...	...	...	...
Bigamy	1	1	...	...	...	...	1	...	...	...
Bringing stolen goods into State.	3	3	...	...	...	...	...	3	...	...
Burglary	1	...	1	...	...	...	...	...	...	...
Concealed weapons	14	9	2	2	1	...	...	...	...	9
Defamation	3	2	...	1	...	...	...	...	...	2
Defaulting road hand	4	3	1	...	...	...	...	...	...	3
Disturbing public assembly.....	1	1	...	...	...	...	...	...	...	1
Disturbing religious worship.....	7	4	1	2	...	...	...	...	...	4
Embezzlement	4	3	1	...	...	...	...	...	...	3
Injuring county jail	1	1	...	...	...	...	...	1	...	...
Larceny, grand	4	4	...	...	...	...	4	...	...	...
Larceny, petit	5	5	...	...	...	...	...	3	...	2
Manslaughter, first degree	3	2	1	...	...	...	1	1	...	...
Murder, first degree	1	1	...	...	...	...	1	...	...	...
Murder, second degree	2	...	2	...	...	...	...	...	...	...
Perjury	2	...	2	...	...	...	...	...	...	...
Permitting to stock to run at large	2	...	2	...	...	...	...	...	...	...
Presenting gun	1	...	1	...	...	...	...	...	...	...
Public drunkenness	3	2	...	1	...	...	...	...	...	2
Resisting officer	1	...	1	...	...	...	...	...	...	...
Seduction	1	...	1	...	...	...	...	...	...	...
Selling liquor to minor	1	1	...	...	...	...	...	...	...	1
Selling liquor without license.....	1	1	...	...	...	...	...	...	...	1
Selling mortgaged property	3	1	...	2	...	...	...	...	...	1
Temporary use property	1	1	...	...	...	...	...	...	...	1
Trespass	2	...	2	...	...	...	...	...	...	...
Trespass after warning	4	1	1	2	...	...	...	...	...	1
Unlawful injury to animals.....	2	1	1	...	...	...	...	...	...	1
Vagrancy	1	1	...	...	...	...	...	1	...	...
Total	138	93	22	20	3	...	7	9	...	77

Percentage of convictions in cases disposed of, 67.

Predominant crime, Abusive Language.



COUNTY COURT OF COFFEE.

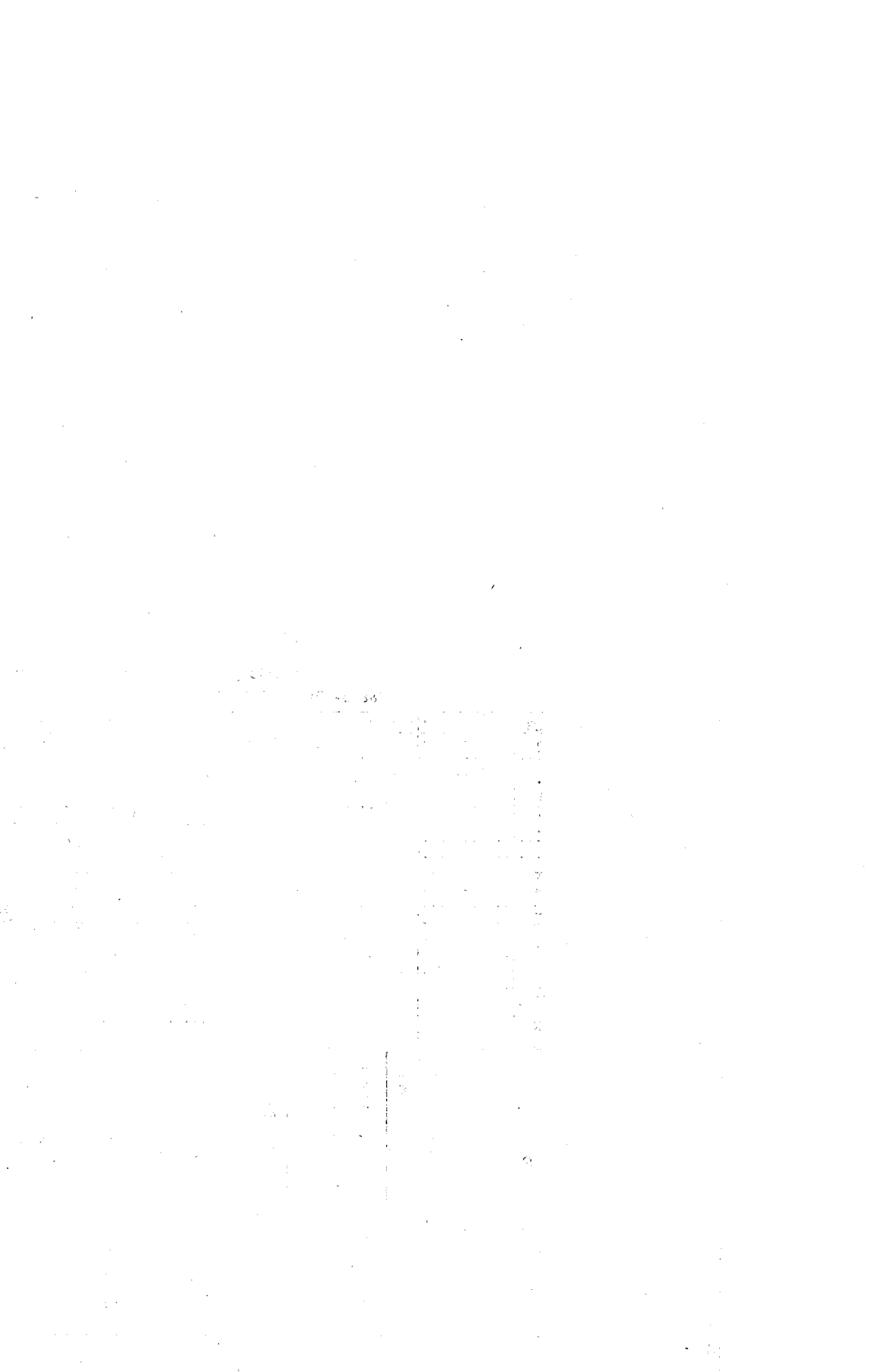
COUNTY COURT OF COFFEE.

Hon. M. J. Lee, Solicitor, Elba, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	17	8	5	4	...	...	...	...	...	8
Adultery and fornication.....	2	1	...	1	...	...	...	1	...	...
Assault and battery	13	1	12	...	...	...	...	...	...	1
Burning fence	5	2	3	...	...	...	...	...	...	2
Concealed weapons	19	7	12	...	...	...	...	...	...	7
Defamation ..	4	1	2	1	...	...	...	...	...	1
Defaulting road hand	10	4	6	...	...	...	...	...	...	4
False pretense	3	2	1	...	...	...	...	...	...	2
Gaming, public place	3	3	...	...	...	...	...	...	...	3
Gaming on Sunday	3	1	2	...	...	...	...	...	...	1
Larceny, petit	6	...	6	...	...	...	...	...	...	...
Malicious mischief ..	1	...	1	...	...	...	...	...	...	...
Presenting gun	1	1	...	...	...	...	...	...	...	1
Public drunkenness	4	4	...	...	...	...	...	...	...	4
Retailing	6	2	4	...	...	...	...	...	...	2
Shooting on or across public road	2	1	1	...	...	...	...	...	...	1
Trespass	1	...	1	...	...	...	...	...	...	...
Unlawful injury to animal	3	1	2	...	...	...	...	...	...	1
Total	103	39	58	6	...	...	...	1	...	38

Percentage of convictions in cases disposed of, 38.

Predominant crime, Concealed Weapons.



COUNTY COURT OF JACKSON.



COUNTY OF JACKSON.

Hon. John F. Proctor, Solicitor, Scottsboro, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abandonment of family	1	1	...	...	...	...	...	...	...	1
Abusive language	32	20	3	8	1	...	...	...	...	20
Adultery and fornication	10	...	1	6	3	...	...	...	...	...
Aiding prisoner to escape	2	2	...	...	...	...	1	...	...	1
Arson, third degree	1	1	...	...	...	...	...	...	...	1
Assault	21	13	1	7	...	...	...	4	...	9
Assault with weapon	2	1	...	1	...	...	...	...	...	1
Assault with intent to murder....	2	1	1	...	...	1	...	...	...	...
Assault with intent to ravish	2	...	1	1	...	...	...	...	...	...
Bastardy	3	...	...	...	3	...	...	...	...	...
Bigamy	1	1	...	...	...	...	1	...	...	...
Burglary	13	9	2	2	...	...	9	...	...	...
Compounding felony	1	...	...	1	...	...	...	...	...	...
Concealed weapons	33	14	7	12	...	...	...	5	...	9
Defaulting road hand	1	...	1	...	...	...	...	...	...	...
Disclosing testimony before grand jury	1	...	1	...	...	...	...	...	...	...
Disposing of mortgaged property ..	2	1	...	1	...	...	1	...	...	...
Disturbing religious worship	12	7	...	4	1	...	...	...	...	7
False pretense	3	2	...	1	...	...	...	1	...	1
Gaming	9	5	1	3	...	...	...	1	...	4
Incest	1	...	1	...	...	...	...	...	...	...
Injury to property	2	...	...	2	...	...	...	...	...	...
Keeping disorderly house	1	1	...	...	...	...	...	...	...	1
Keeping sheep-killing dog	1	...	...	...	...	...	...	...	...	...
Killing fish	3	...	...	3	...	...	...	...	...	...
Larceny, grand	13	8	1	4	...	...	8	...	...	...
Larceny, petit	3	2	...	1	...	...	...	...	...	2
Manslaughter, first degree	4	3	...	1	...	...	3	...	...	...
Murder, first degree	2	2	...	...	...	...	2	...	...	...
Murder, second degree	3	1	2	...	...	...	1	...	...	...
Obtaining goods false pretense....	1	...	1	...	...	...	...	...	...	...
Perjury	2	...	...	2	...	...	...	...	...	...
Retailing	85	31	14	38	2	...	...	10	...	21
Robbery	2	1	...	1	...	...	1	...	...	...
Seduction	1	...	1	...	...	...	...	...	...	...
Selling cigarettes to minor	8	7	...	1	...	...	...	...	...	7
Selling mortgaged property	1	...	1	...	...	...	...	...	...	...

COUNTY COURT OF JACKSON—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Shooting on Sunday	3	...	...	3	...	...	...	...	...	...
Shooting on train	1	1	...	...	...	...	...	...	...	1
Temporary use property	1	1	...	...	...	...	...	...	...	1
Trading mortgaged property	1	...	...	1	...	...	...	...	...	...
Trespass	3	1	...	2	...	...	...	...	...	1
Unlawfully killing animal	5	2	2	1	...	...	...	2	...	...
Violating Sunday law	4	3	...	1	...	...	...	...	...	3
Total	303	142	42	109	10	...	28	23	...	91

Percentage of convictions in cases disposed of, 47.

Predominant crime, Retailing.

COUNTY COURT OF LAWRENCE.



COUNTY COURT OF LAWRENCE.

Hon. D. C. Almon, Solicitor, Moulton, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	5	4	...	1	...	...	...	...	...	4
Adultery and fornication	3	2	1	...	...	...	...	...	...	2
Assault	8	4	...	4	...	...	...	...	...	4
Assault with weapon	1	...	...	1	...	...	...	...	...	...
Concealed weapons	6	3	1	1	1	...	...	...	...	3
Disturbing religious worship	3	2	1	...	...	...	...	...	...	2
Gaming	3	1	...	2	...	...	...	...	...	1
Keeping open store	2	...	...	2	...	...	...	...	...	...
Public drunkenness	6	5	...	1	...	...	...	...	...	5
Resisting officer	1	...	1	...	...	...	...	...	...	...
Selling liquor to minor	2	2	...	...	...	...	...	...	...	2
Trespass	1	...	...	1	...	...	...	...	...	...
Unlawful injury to animal	1	...	1	...	...	...	...	...	...	...
Violating revenue law	6	4	...	2	...	...	...	...	...	4
Total	48	27	5	15	1	...	...	...	...	27

Percentage of convictions in cases disposed of, 56.

Predominant crime, Assault.



COUNTY OF MADISON.

COUNTY OF MADISON.

Hon. Tancred Betts, Solicitor, Huntsville, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	23	10	...	13	...	...	...	1	1	8
Adultery and fornication	10	3	1	6	...	...	...	1	...	2
Affray	3	2	...	1	...	...	...	...	...	2
Arson, third degree	3	...	1	2	...	...	...	...	...	...
Assault	29	14	4	11	...	...	...	4	...	10
Assault and battery	2	...	...	2	...	...	...	...	...	...
Assault with weapon	8	8	...	...	...	...	...	...	...	8
Assault with intent to murder	3	1	...	2	...	...	1	...	...	...
Bigamy	2	...	...	2	...	...	...	...	...	...
Breaking jail	1	1	...	...	...	...	...	1	...	...
Burglary	17	11	1	5	...	...	5	6	...	...
Carnal knowledge, girl under 10..	1	1	...	...	...	...	1	...	...	...
Carrying on lottery	4	3	...	1	...	...	...	...	...	3
Cock fighting	1	1	...	...	...	...	...	...	...	1
Concealed weapons	60	28	9	23	...	...	...	15	...	13
Cruelty to animals	3	1	1	1	...	...	...	...	...	1
Defacing graves	2	...	...	2	...	...	...	...	...	...
Disposing property under lien....	1	...	...	1	...	...	...	...	...	...
Disturbing public worship	8	4	...	4	...	...	...	...	...	4
Disturbing religious worship.....	4	3	1	...	...	...	...	2	...	1
Engaging in business without license	2	2	...	...	...	...	...	...	...	2
Enticing away servant	1	1	...	...	...	...	...	1	...	...
Exchanging choking mule	2	...	1	1	...	...	...	...	...	...
Forgery, second degree	1	1	...	...	...	...	...	1	...	...
Gaming	122	71	6	45	...	...	...	17	...	54
Jumping on or off train	1	1	...	...	...	...	...	...	...	1
Keeping billiard table	2	2	...	...	...	...	...	...	...	2
Keeping gaming table	1	...	1	...	...	...	...	...	...	...
Keeping open store	36	35	1	...	...	...	...	...	...	35
Killing fish with dynamite	1	1	...	...	...	...	...	...	...	1
Larceny, grand	39	25	...	14	...	...	...	25	...	...
Larceny, petit	22	19	1	2	...	...	...	6	1	12
Malicious mischief	2	2	...	...	...	...	...	...	...	2
Manslaughter, second degree	3	1	2	...	...	...	...	1	...	...
Medicine, practice without license	1	1	...	...	...	...	...	...	...	1

COUNTY OF MADISON—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Murder, first degree	1	1	...	...	...	...	1	...	...	...
Murder, second degree	6	1	4	1	...	...	1	...	...	...
Obtaining property, false pretense	1	...	...	1	...	...	...	...	...	...
Rape	2	1	1	...	...	...	...	1	...	...
Removing mortgaged property ...	1	...	...	1	...	...	...	...	...	...
Removing property under lien....	1	...	...	1	...	...	...	...	...	...
Resisting officer	1	1	...	...	...	...	...	1	...	...
Retailing	28	11	1	16	...	...	...	...	...	11
Robbery	1	1	...	...	...	...	1	...	...	...
Selling liquor on election day....	2	2	...	...	...	...	...	...	...	2
Selling liquor to minor	5	4	1	...	...	...	...	...	...	4
Selling liquor to person of known intemperate habits	2	...	2	...	...	...	...	...	...	...
Selling liquor without license....	3	...	...	3	...	...	...	...	...	...
Selling property under lien....	3	2	...	1	...	...	...	1	...	1
Shooting on or across public road	1	1	...	...	...	...	...	...	...	1
Taking illegal fees	1	...	...	1	...	...	...	...	...	...
Throwing missile at railroad train	2	...	...	2	...	...	...	...	...	...
Trespass after warning	12	1	...	11	...	...	...	1	...	...
Vagrancy	1	...	...	1	...	...	...	...	...	...
Violating contract	2	1	...	1	...	...	...	1	...	...
Whitcapping	1	...	...	1	...	...	...	...	...	...
Total	498	280	39	179	...	...	10	86	2	182

Percentage of convictions in cases disposed of, 56.

Predominant crime, Gaming.

COUNTY COURT OF MONTGOMERY.

COUNTY COURT OF MONTGOMERY.
Hon. Tennent Lomax, Solicitor, Montgomery, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abduction	1	...	...	1	...	...	...	...	...	...
Abusive language	8	8	10	5	...	...	...	8	...	...
Adultery and fornication	1	1	...	...	...	...	...	1	...	...
Assault	1	...	...	1	...	...	...	...	...	...
Assault and battery	13	3	7	3	...	...	...	3	...	...
Assault with weapon	23	12	6	4	1	...	...	8	...	4
Concealed weapons	1	...	1	...	...	...	...	...	...	...
Defamation	1	1	...	...	...	...	...	1	...	...
Disturbing religious worship	1	...	...	1	...	...	...	...	...	...
Embezzlement	1	1	...	...	...	...	...	1	...	...
Escape	1	...	...	1	...	...	...	...	...	...
False pretense	2	2	...	...	...	...	...	2	...	...
Gaming	2	...	2	...	...	...	...	...	...	...
Jumping on or off train	3	2	...	1	...	...	...	2	...	...
Larceny, petit	12	6	4	2	...	...	...	5	...	1
Malicious mischief	3	1	1	...	1	...	...	1	...	...
Presenting gun	1	1	...	...	...	...	...	1	...	...
Trespass after warning	4	2	1	1	...	...	...	2	...	...
Vagrancy	1	...	1	...	...	...	...	...	...	...
Violating revenue law	1	...	...	1	...	...	...	...	...	...
Total	96	40	33	21	2	...	...	35	...	5

Percentage of convictions in cases disposed of, 42.

Predominant crimes, Assault With Weapon, and Abusive Language.

COUNTY COURT OF MORGAN.



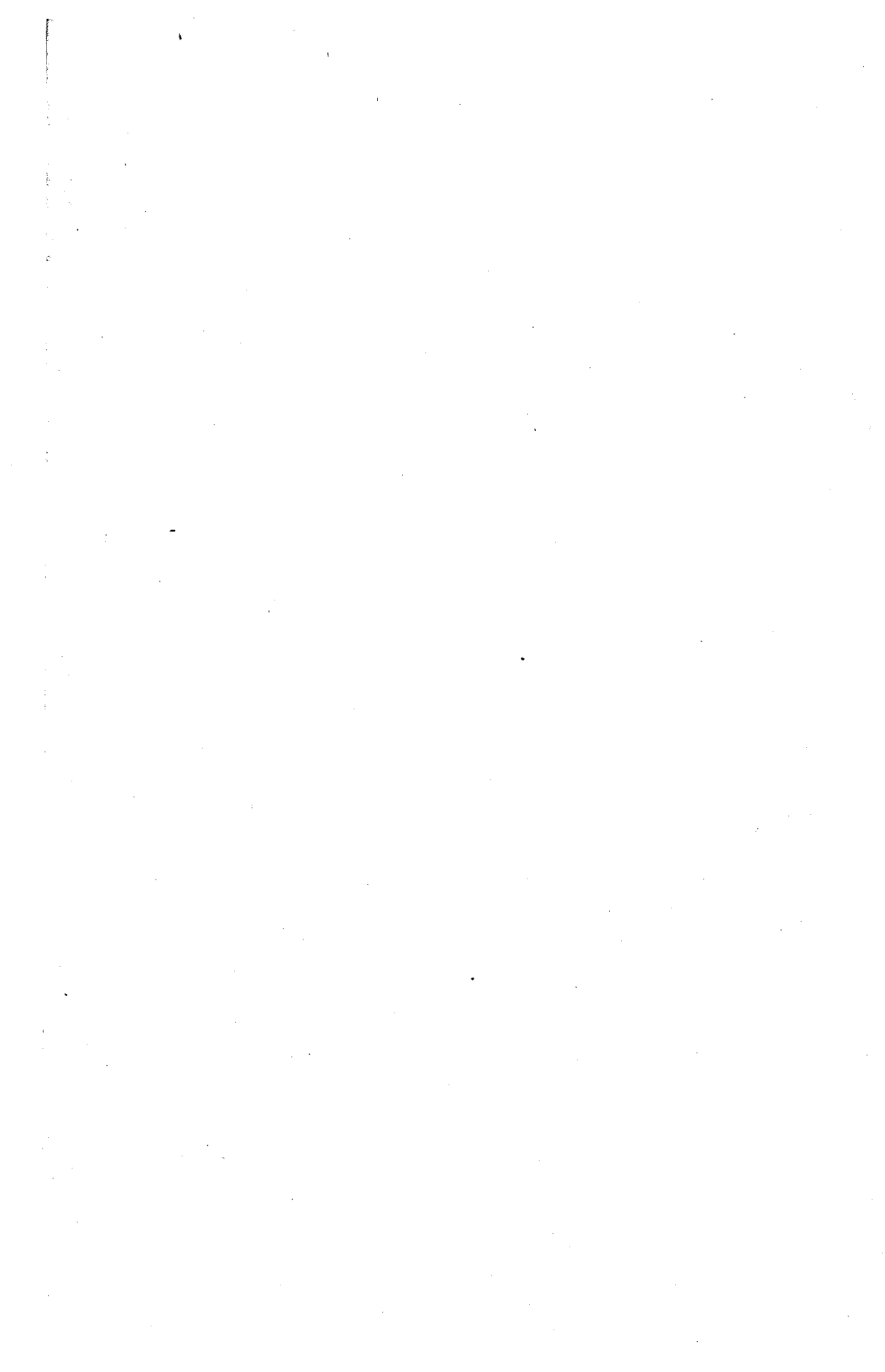
COUNTY COURT OF MORGAN.

Hon. J. C. Eyster, Solicitor, Decatur, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Fines remitted.	Reformatory.
						Death.	Penitentiary.	Hard labor.	Jail.			
Abandoning family	1	...	...	1	...	...	...	...	...	...	...	...
Abusive language	16	6	4	5	1	...	...	2	1	3	...	...
Adultery and fornication..	10	5	1	4	...	...	...	2	...	1	2	...
Affray	1	1	...	...	...	...	...	1	...	...	...	...
Assault	3	2	...	1	...	...	...	2	...	...	...	...
Assault and battery	67	30	13	23	1	...	...	14	...	16	...	...
Assault with weapon	1	1	...	...	...	...	...	...	...	1	...	...
Breach of peace	6	...	1	5	...	...	...	...	...	...	...	...
Carrying on lottery	2	1	...	1	...	...	...	...	...	1	...	...
Common prostitute	6	4	1	1	...	...	...	2	1	1	...	...
Concealed weapons	26	18	4	4	...	...	...	14	...	4	...	...
Cruelty to animals	1	...	1	...	...	...	...	...	...	...	...	...
Defamation	2	2	...	...	...	...	...	...	...	2	...	...
Defaulting road hand	1	...	1	...	...	...	...	...	...	...	...	...
Disturbing school	1	1	...	...	...	...	...	...	...	1	...	...
Disturbing public worship	...	...	...	3	...	...	...	...	...	...	...	...
Disturbing religious wor-	1	1	...	...	...	...	...	...	...	1	...	...
ship	1	1	...	...	...	...	...	...	...	1	...	...
False pretense	7	4	1	2	...	...	...	2	...	2	...	...
Gaming	39	18	9	12	...	...	...	3	...	15	...	...
Larceny, petit	53	45	2	6	...	...	...	36	1	7	...	1
Medicine, practicing with-	1	1	...	...	...	...	...	...	...	1	...	...
out license	1	...	...	1	...	...	...	...	...	...	...	...
Presenting gun	1	...	...	1	...	...	...	...	...	...	...	...
Public drunkenness	6	5	...	1	...	...	...	2	...	3	...	...
Selling liquor with-	6	3	...	3	...	...	...	...	...	3	...	...
out license	2	...	...	2	...	...	...	...	...	...	...	...
Selling mortgaged property	2	...	...	2	...	...	...	...	...	...	...	...
Trespass	2	...	...	2	...	...	...	...	...	...	...	...
Trespass after warning ...	2	1	1	...	...	...	...	1	...	...	...	...
Unlawfully riding on train	47	43	2	2	...	...	...	39	...	4	...	...
Vagrancy	6	5	...	1	...	...	...	4	...	1	...	...
Violating Sunday law	1	1	...	...	...	...	...	...	...	1	...	...
Total	321	198	41	80	2	...	...	124	3	68	2	1

Percentage of convictions in cases disposed of, 62.

Predominant crime, Assault and Battery.



COUNTY COURT OF SUMTER.



COUNTY COURT OF SUMTER.

Hon. James A. Mitchell, Solicitor, Livingston, Ala.

CHARACTER OF OFFENSE.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive language	17	13	1	3	...	...	...	...	...	13	
Adultery and fornication	5	4	1	...	...	...	...	2	...	2	
Assault and battery	17	14	...	3	...	...	...	2	...	12	
Assault and battery with weapon.	36	22	10	4	...	...	...	5	...	17	
Carrying on lottery	1	1	...	...	...	...	...	...	...	1	
Concealed weapons	19	12	4	3	...	...	...	9	...	3	
Cruelty to animals	2	1	...	1	...	...	...	...	...	1	
Defaulting road overseer	3	2	1	...	...	...	...	...	...	2	
Disturbing religious worship	3	1	...	2	...	...	...	...	...	1	
Escape	3	1	...	2	...	...	...	1	...	...	
False pretense	4	2	1	1	...	...	...	...	...	2	
Gaming	6	5	...	1	...	...	...	2	...	3	
Larceny, petit	9	8	...	1	...	...	...	3	...	5	
Presenting gun	4	4	...	...	...	...	...	...	...	4	
Public drunkenness	6	4	...	2	...	...	...	...	...	4	
Removing boat from mooring....	1	...	1	...	...	...	...	...	...	...	
Removing mortgaged property...	4	1	1	2	...	...	...	...	...	1	
Resisting officer	4	2	...	2	...	...	...	2	...	...	
Temporary use of animal	1	...	1	...	...	...	...	...	...	...	
Trespass	1	...	...	1	...	...	...	...	...	...	
Trespass after warning	1	...	1	...	...	...	...	...	...	...	
Unlawful injury to animal	2	1	1	...	...	...	...	...	...	1	
Violating contract	5	3	1	...	1	...	...	2	...	1	
Violating criminal contract.....	7	6	1	...	...	...	...	4	...	2	
Violating prohibition law.....	16	10	3	1	2	...	...	1	...	9	
Violating Sunday law	1	1	...	...	...	...	...	...	...	1	
Total.....	321	198	41	80	2	...	124	3	68	2	1

Percentage of convictions in cases disposed of, 66.

Predominant crime, Assault and Battery with Weapon.

COUNTY COURT OF TUSCALOOSA.

COUNTY COURT OF TUSCALOOSA.

Hon. Henry B. Foster, Solicitor, Tuscaloosa, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictious.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Fines remitted.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abduction	2	...	1	1	...	...	...	...	...	...	...
Abusive language	30	12	5	13	...	...	...	...	...	12	...
Adultery and fornication	27	17	...	10	...	...	...	5	...	12	...
Arson, first degree	1	...	...	...	1	...	...	...	...	...	...
Arson, second degree	1	1	...	...	...	...	1	...	...	...	...
Assault and battery	8	5	...	3	...	...	...	3	...	2	...
Assault and battery, weapon.	69	44	10	14	1	...	...	9	...	35	...
Assault with intent to murder	5	4	1	...	...	...	4	...	...	...	...
Assault with inetnt to ravish.	1	1	...	...	...	...	1	...	...	...	...
Assault with intent to rob....	1	1	...	...	...	...	1	...	...	...	...
Attempt to commit felony....	1	1	...	...	...	...	...	1	...	...	...
Beating way on train	1	1	...	...	...	...	...	1	...	...	...
Burglary and grand larceny..	4	4	...	...	...	...	4	...	...	...	...
Carrying on lottery	1	1	...	...	...	...	...	...	...	1	...
Concealed weapons	67	47	9	11	...	...	...	14	...	33	...
Defacing building	2	2	...	...	...	...	...	...	...	2	...
Defamation	2	...	...	2	...	...	...	...	...	...	...
Defaulting road apportioner..	1	...	...	1	...	...	...	...	...	...	...
Defaulting road overseer	2	...	1	1	...	...	...	...	...	...	...
Disturbing religious worship.	5	4	...	1	...	...	...	...	...	4	...
Embezzlement	3	1	1	1	...	...	...	...	...	1	...
Enticing away laborer	1	...	1	...	...	...	...	...	...	...	...
False pretense	10	6	...	4	...	...	2	...	...	4	...
Forgery, second degree	4	3	...	1	...	...	3	...	...	...	...
Gaming	28	22	1	5	...	...	...	7	1	14	...
Incest	1	1	...	...	...	...	1	...	...	...	...
Keeping house prostitution...	1	1	...	...	...	...	...	...	...	1	...
Larceny, grand	7	6	...	1	...	...	6	...	...	...	...
Larceny, petit	17	16	...	1	...	...	...	7	**1	9	...
Meeting together to commit breach of peace	1	...	...	1	...	...	...	...	...	...	...
Murder, first degree	5	3	1	1	...	1	2	...	...	...	...
Presenting gun	5	1	3	1	...	...	...	1	...	...	...
Preventing person from engag- ing in business	1	...	...	1	...	...	...	...	...	...	...
Public drunkenness	8	5	...	3	...	...	...	1	...	4	...
Removing mortgaged property	1	1	...	...	...	...	...	...	...	1	...
Resisting officer	1	...	...	1	...	...	...	...	...	...	...

COUNTY COURT OF TUSCALOOSA—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Fines remitted.
						Death.	Penitentiary.	Hard labor.	Jail.		
Retailing	4	3	...	1	...	...	...	1	...	2	...
Selling liquor to minor.....	1	...	1	...	...	...	...	...	...	...	...
Selling mortgaged property...	3	1	...	2	...	...	...	...	...	1	...
Shooting on or across public road	1	...	...	1	...	...	...	...	...	...	...
Shooting on train	1	1	...	...	...	...	...	...	...	1	...
Sodomy	1	...	...	1	...	...	...	...	...	...	...
Temporary use vehicle	1	...	1	...	...	...	...	...	...	...	...
Trapping fish	1	...	...	1	...	...	...	...	...	...	...
Trespass after warning	10	3	5	2	...	...	...	...	...	1	2
Unlawfully detaining child ...	1	1	...	...	...	...	...	...	...	1	...
Unlawful injury to animals..	8	3	1	4	...	...	...	...	...	3	...
Using girl for prostitute.....	1	...	...	1	...	...	...	...	...	...	...
Vagrancy	2	1	...	1	...	...	...	...	...	1	...
Violating convict contract	1	1	...	...	...	...	...	1	...	...	...
Violating criminal contract ..	6	2	1	3	...	...	...	2	...	...	...
Violating prohibition law.....	6	...	1	5	...	...	...	...	...	...	...
Violating revenue law	16	6	2	8	...	...	...	1	...	5	...
Violating Sunday law	2	...	1	1	...	...	...	...	...	...	...
Total	391	233	47	109	2	1	25	54	2	150	2

Percentage of convictions in cases disposed of, 59.

Predominant crime, Assault and Battery, with Weapon.

**Fined and sentenced to jail.

CRIMINAL COURT OF JEFFERSON CO.

CRIMINAL COURT OF JEFFERSON COUNTY.

Hon. H. P. Heflin, Solicitor, Birmingham, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Insane Asylum.	Pardoned.
						Death.	Penitentiary.	Hard labor.	Jail.			
Abandoning family	1	...	1	...	...	...	...	...	...	...	...	...
Abusive language	208	76	56	58	18	...	...	26	6	43	1	...
Accessory before fact.....	1	...	...	...	1	...	...	...	...	...	...	...
Adultery and fornication.	25	1	6	15	3	...	...	1	...	...	...	...
Affray	1	...	...	...	1	...	...	...	...	...	...	...
Aiding felon to escape ...	2	...	...	2	...	...	...	...	...	...	...	...
Aiding prisoner to escape.	1	...	...	...	1	...	...	...	...	...	...	...
Appeals, Mayor and Aldermen, Birmingham	58	10	17	14	17	...	...	1	...	9	...	...
Appeals, Mayor and Council, Ensley	9	8	...	1	...	...	...	...	...	8	...	...
Appeals, Police Court, Birmingham	62	4	15	25	18	...	...	...	...	4	...	...
Appeals, Police Court, Ensley	1	...	1	...	...	...	...	...	...	...	...	...
Arson, second degree	3	...	1	2	...	...	...	...	...	...	...	...
Assault	6	2	1	3	...	...	...	...	1	1	...	...
Assault and battery	73	29	10	27	7	...	...	11	1	17	...	...
Assault & battery, weapon	241	141	42	44	14	...	...	68	*15	58	1	...
Assault to murder	115	41	30	34	10	...	20	21	...	...	...	...
Assault to ravish	3	2	1	...	...	...	2	...	...	...	...	...
Assault to rob	5	2	2	1	...	...	1	1	...	...	...	...
Attempt at burglary	3	3	...	...	...	...	...	3	...	...	...	...
Attempt at grand larceny..	2	1	1	...	...	...	...	...	11	...	...	...
Bigamy	3	1	...	2	...	...	1	...	...	...	...	...
Breaking fence	6	...	1	5	...	...	...	...	...	...	...	...
Burglary	24	17	3	2	2	...	11	6	...	...	...	...
Burglary and grand larceny	175	122	27	21	4	...	59	63	...	...	...	...
Carnal knoweldge, girl under 10	1	1	...	...	...	...	1	...	...	...	...	...
Carnal knoweldge, girl over 10	1	...	...	...	1	...	...	...	...	...	...	...
Carrying on lottery	1	...	...	1	...	...	...	...	...	...	...	...
Carrying whiskey into jail	1	...	...	...	1	...	...	...	...	...	...	...
Concealed weapons	113	46	26	35	6	...	...	29	1	16	...	...
Conspiracy	4	3	1	...	...	...	...	...	...	3	...	...
Crime against nature	1	1	...	...	...	...	...	1	...	...	...	...

CRIMINAL COURT OF JEFFERSON COUNTY—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittal.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Insane Asylum.	Pardoned.
						Death.	Penitentiary.	Hard labor.	Jail.			
Cruelty to animals	2	...	2	...	...	...	...	...	...	...	...	...
Decoying away child	5	...	2	2	1	...	...	...	...	...	...	...
Defacing building	3	...	3	...	...	...	...	...	...	...	...	...
Defacing dwelling	2	...	...	1	1	...	...	...	...	...	...	...
Defamation	20	2	5	8	5	...	...	...	...	2	...	...
Deraulting road hand	5	...	1	2	2	...	...	...	...	...	...	...
Defaulting witness	1	1	...	...	...	...	...	1	...	...	...	...
Disturbing assembly	3	...	...	2	1	...	...	...	...	...	...	...
Disturbing peace	1	...	...	...	1	...	...	...	...	...	...	...
Disturbing relig's worship	8	...	5	3	...	...	...	...	...	...	...	...
Disturbing school	1	...	1	...	...	...	...	...	...	...	...	...
Disturbing women	11	5	1	3	2	...	...	1	...	4	...	...
Embezzlement	8	1	5	...	2	...	...	...	1	...	...	...
Enticing away laborer	11	1	...	9	1	...	...	...	...	1	...	...
Escape	9	6	1	2	...	...	...	6	...	...	...	...
Failure to stop at R. R. X	2	...	...	1	1	...	...	...	...	...	...	...
False pretense	24	6	5	8	5	...	2	2	2	*1	...	...
Forgery, second degree	28	10	4	8	6	...	5	4	...	...	...	1
Forgery, third degree	10	9	1	...	...	...	9	...	...	...	...	...
Fraudulent conveyance	2	...	1	1	...	...	...	...	...	...	...	...
Gaming	39	20	10	4	5	...	...	9	1	10	...	...
Illegal voting	1	...	...	1	...	...	...	...	...	...	...	...
Imitating trade mark	1	...	1	...	...	...	...	...	...	...	...	...
Impeachment	1	...	1	...	...	...	...	...	...	...	...	...
Indecent exposure of person	1	1	...	...	...	...	...	1	...	...	...	...
Intimidation	1	...	1	...	...	...	...	...	...	...	...	...
Keeping gaming table	4	...	3	1	...	...	...	...	...	...	...	...
Kidnapping	1	...	...	1	...	...	...	...	...	...	...	...
Larceny, grand	280	151	55	60	14	...	59	91	...	...	1	...
Larceny, petit	85	57	15	9	4	...	...	38	*18	4	...	...
Maintaining nuisance	1	1	...	...	...	...	...	...	...	1	...	...
Malicious mischief	10	1	1	6	2	...	...	...	...	...	1	...
Manslaughter, first degree	7	5	1	...	1	...	3	2	...	...	...	...
Manslaughter, sec'd degree	3	2	...	1	...	...	...	2	...	...	...	...
Murder, first degree	55	19	21	8	7	6	13	...	...	...	...	...
Murder, second degree	12	8	3	1	...	...	8	...	...	...	...	...
Obstructing railroad	1	...	1	...	...	...	...	...	...	...	...	...
Operating slot machine	5	...	...	5	...	...	...	...	...	...	...	...
Perjury	12	1	1	5	5	...	1	...	...	...	...	...

CRIMINAL COURT OF JEFFERSON COUNTY— *Continued.*

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Insane Asylum.	Pardoned.
						Death.	Penitentiary.	Hard labor.	Jail.			
Presenting gun	22	6	5	10	1	...	...	1	...	5	...	...
Prostitution	1	...	1	...	...	...	...	...	...	...	...	...
Public drunkenness	4	...	...	4	...	...	...	...	...	...	...	...
Rape	6	2	1	2	1	...	2	...	...	...	...	...
Receiving stolen property	17	5	6	6	...	...	1	3	1	...	...	...
Resisting process	7	3	...	3	1	...	...	1	...	2	...	...
Robbery	26	9	6	10	1	...	9	...	...	...	...	...
Seduction	2	...	1	1	...	...	...	...	...	...	...	...
Selling liquor to minor....	2	1	...	1	...	...	...	...	...	1	...	...
Selling mortgaged property	2	...	1	1	...	...	...	...	...	...	...	...
Severing from freehold ...	3	2	1	...	...	...	...	2	...	...	...	...
Shooting on or across public road	2	1	1	...	...	...	...	...	...	1	...	...
Tampering with R. R. track	1	...	1	...	...	...	...	...	...	...	...	...
Trespass after warning....	31	2	10	15	4	...	...	...	...	2	...	...
Vagrancy	105	38	23	30	14	...	...	35	2	1	...	...
Violating insurance law....	1	...	...	1	...	...	...	...	...	...	...	...
Violating revenue law.....	351	83	31	193	44	...	...	18	6	59	...	...
Violating Sunday law.....	92	49	26	12	5	...	...	34	1	14	...	...
Wanton injury to stock....	2	1	1	...	...	...	...	...	...	1	...	...
Wanton mischief	13	3	3	7	...	...	...	...	1	2	...	...
Total	2516	1023	511	741	241	6	207	482	58	270	4	1

Percentage of convictions in cases disposed of, 40.

Predominant crime, Violating Revenue Law.

*Fined and sentenced to jail in some cases.

CRIMINAL COURT OF PIKE COUNTY.



CRIMINAL COURT OF PIKE COUNTY.

Hon. E. R. Brannen, Solicitor, Troy, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	11	3	3	3	2	...	...	...	...	3
Adultery and fornication	10	3	2	...	5	...	...	3	...	...
Assault and battery	39	25	13	...	1	...	...	4	...	21
Assault with weapon	11	3	1	7	...	...	...	2	...	1
Attempt at burglary	1	1	...	...	...	...	...	...	...	1
Attempt to beat way on train...	12	10	...	2	...	...	...	9	...	1
Beating way on train	3	1	1	1	...	...	...	...	...	1
Breaking fence	2	...	1	1	...	...	...	...	...	...
Concealed weapons	38	19	9	9	1	...	...	16	...	3
Concealing stolen property	1	1	...	...	...	...	...	...	...	1
Defacing building ..	3	2	...	1	...	...	...	...	...	2
Defamation	4	...	...	1	3	...	...	...	...	...
Defaulting road overseer	1	1	...	...	...	...	...	...	...	1
Disposing of mortgaged property	5	...	1	4	...	...	...	...	...	...
Disposing property under lien...	7	...	3	3	1	...	...	...	...	...
Embezzlement	1	1	...	...	...	...	...	1	...	...
Enticing away laborer	1	...	...	1	...	...	...	...	...	...
Enticing away servant	1	...	...	1	...	...	...	...	...	...
Escape	1	1	...	...	...	...	...	...	...	1
False pretense	12	2	2	7	1	...	...	...	...	2
Flagging train unlawfully	1	1	...	...	...	...	...	...	...	1
Obstructing public road	2	...	...	...	2	...	...	...	...	...
Gaming	34	22	2	10	...	...	...	8	...	14
Larceny, petit	36	16	6	8	6	...	...	10	...	6
Playing cards, public place.....	10	4	2	3	1	...	...	2	...	2
Presenting gun	4	2	1	1	...	...	...	...	...	2
Public drunkenness	1	1	...	...	...	...	...	...	...	1
Removing mortgaged property ...	3	1	...	2	...	...	...	...	...	1
Retailing	1	...	1	...	...	...	...	...	...	...
Selling liquor to minor	2	1	...	1	...	...	...	...	...	1
Selling mortgaged property	1	1	...	...	...	...	...	1	...	...
Severing from freehold	1	1	...	...	...	...	...	...	...	1
Shooting on public road	1	...	1	...	...	...	...	...	...	...
Sunday breaking	6	5	1	...	...	...	...	...	...	5
Trespass	8	1	2	5	...	...	...	...	...	1
Trespass after warning	3	...	1	2	...	...	...	...	...	...
Trespass by cutting timber	1	...	1	...	...	...	...	...	...	...

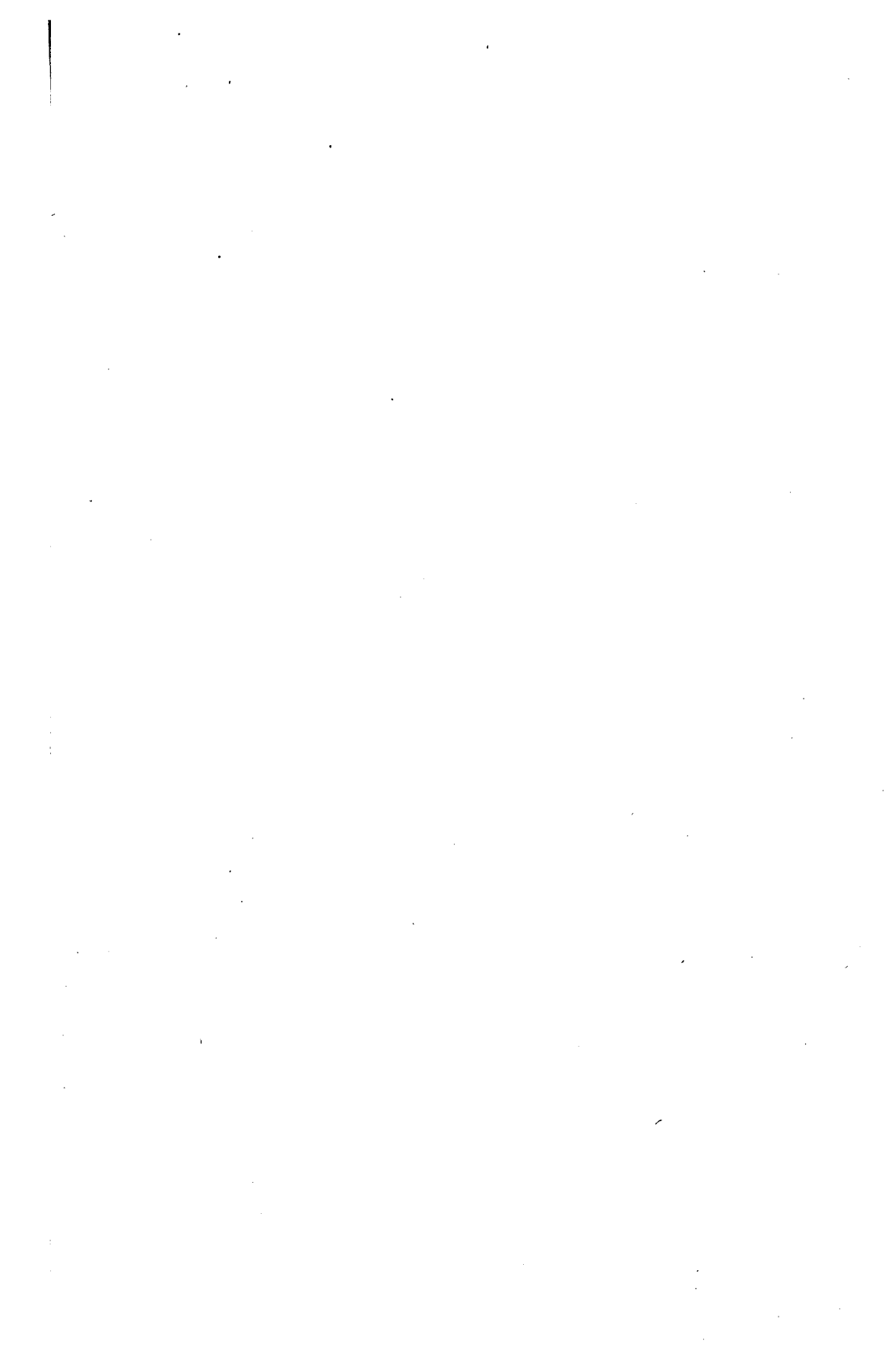
CRIMINAL COURT OF PIKE COUNTY—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of.	Convictions.	Acquittal.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Vagrancy	10	1	5	4	...	...	...	1	...	...
Violating contract	1	1	...	...	...	...	...	...	...	1
Violating civil contract	2	...	1	1	...	...	...	...	...	...
Violating criminal contract	7	7	...	...	...	...	...	1	...	6
Violating election laws	1	...	...	1	...	...	...	...	...	...
Wantonly killing animal	1	...	1	...	...	...	...	...	...	...
Total	301	138	61	79	25	...	...	58	...	80

Percentage of convictions in cases disposed of, 46.

Predominant crime, Assault and Battery.

FIRST JUDICIAL CIRCUIT.



FIRST JUDICIAL CIRCUIT.

Composed of the Counties of Choctaw, Clarke, Marengo and Monroe.

--on. B. F. Elmore, Solicitor, Demopolis, Ala.

CHARACTER OF OFFENSE.	No. cases disposed of.	Convictions.	Acquittal.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	42	33	3	3	3	...	...	1	...	32
Adultery and fornication	8	7	1	...	...	...	...	1	...	6
Affray	6	6	...	...	...	...	...	...	...	6
Arson, second degree	2	2	...	...	...	...	2	...	...	...
Arson, third degree	1	1	...	...	...	...	...	...	...	1
Assault	6	5	...	1	...	...	...	1	...	4
Assault and battery	111	92	10	6	3	...	...	11	...	81
Assault with weapon	1	1	...	...	...	...	...	1	...	...
Assault with intent to murder...	14	5	3	3	3	...	5	...	...	...
Assault with intent to ravish....	2	1	1	...	...	...	1	...	...	...
Assault with intent to rob.....	1	1	...	...	...	...	1	...	...	...
Attempt to commit burglary.....	1	1	...	...	...	...	...	1	...	...
Attempt to commit petit larceny.	1	1	...	...	...	...	...	...	...	1
Bastardy	2	1	1	...	...	...	...	...	...	1
Burglary	32	26	5	1	...	...	10	15	...	1
Burglary and grand larceny.....	1	...	...	1	...	...	...	...	...	...
Carnal knowledge, girl under 14..	1	1	...	...	...	...	...	...	...	1
Concealed weapons	67	44	10	8	5	...	...	10	...	34
Cruelty to animals	2	2	...	...	...	...	...	...	...	2
Defacing building	1	...	...	1	...	...	...	...	...	...
Defacing church	1	1	...	...	...	...	...	...	...	1
Defamation	1	1	...	...	...	...	...	...	...	1
Defaulting road hand	2	1	...	1	...	...	...	...	...	1
Defaulting road overseer	1	1	...	...	...	...	...	...	...	1
Disposing mortgaged property....	2	1	...	1	...	...	...	...	...	1
Disturbing religious worship....	9	6	2	1	...	...	...	1	...	5
Embezzlement	4	2	...	2	...	...	...	...	...	2
Escape	2	1	...	...	1	...	...	...	...	1
False pretense	10	6	2	2	...	...	...	...	...	6
Forgery, second degree	1	1	...	...	...	...	1	...	...	...
Forgery, third degree	2	2	...	...	...	...	...	...	...	2
Gaming	2	1	1	...	...	...	...	...	...	1
Gaming in public place	5	5	...	...	...	...	...	...	...	5
Gaming on Sunday	20	1	...	2	1	...	...	...	...	17
Giving liquor to minor	1	1	...	...	...	...	...	...	...	1
Horse racing on public road.....	1	1	...	...	...	...	...	...	...	1

FIRST JUDICIAL CIRCUIT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Incest	1	1	...	...	...	...	1	...	...	...
Larceny, grand	17	10	...	9	1	...	4	6	...	...
Larceny, petit	32	25	3	3	1	...	...	3	...	22
Malicious mischief	1	1	...	...	...	...	1	...	...	...
Manslaughter, first degree	7	7	...	...	...	...	3	4	...	...
Manslaughter, second degree	6	6	...	...	...	...	1	...	...	5
Murder, second degree	20	9	9	2	...	...	9	...	...	...
Obtaining money, false pretense..	3	3	...	...	...	...	...	...	...	3
Negligent escape	2	...	2	...	...	...	...	...	...	...
Perjury	1	...	...	1	...	...	...	...	...	...
Presenting gun	4	3	...	1	...	...	...	...	...	3
Public drunkenness	8	6	1	1	...	...	...	...	...	6
Resisting process	2	2	...	...	...	...	...	1	...	1
Robbery	1	1	...	...	...	...	1	...	...	...
Selling liquor without license....	9	4	1	2	2	...	...	...	...	4
Selling mortgaged property	2	...	1	1	...	...	...	...	...	...
Shooting on or across public road	1	1	...	...	...	...	...	...	...	1
Temporary use of animal	1	1	...	...	...	...	...	...	...	1
Trespass after warning	5	2	2	1	...	...	...	...	...	2
Trespass to realty	3	2	1	...	...	...	...	...	...	2
Unlawful injury to animal	14	10	2	2	...	...	1	...	...	9
Violating contract	1	1	...	...	...	...	...	...	...	1
Violating prohibition law	21	11	1	6	3	...	...	2	...	9
Violating stock law	2	2	...	...	...	...	...	...	...	2
Violating Sunday law	1	...	...	1	...	...	...	...	...	...
Violating sunset and sunrise law	3	2	1	...	...	...	...	...	...	2
Total	534	388	63	60	23	...	38	61	...	289

Percentage of convictions in cases disposed of, 72.

Predominant crime, Assault and Battery.

SECOND JUDICIAL CIRCUIT.



SECOND JUDICIAL CIRCUIT.

Composed of the counties of Butler, Conecuh, Crenshaw, Escambia,
Lowndes and Montgomery.

Hon. C. R. Bricken, Solicitor, Luverne, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abandoning family	1	1								1
Abusive language	48	43	5					2		41
Adultery and fornication	4		1	3						
Affray	3	2		1						2
Arson, second degree	2	2					2			
Assault	1	1						1		
Assault and battery	26	23	1	2				2		21
Assault and battery, with weapon	65	63	1	1				13		50
Assault with weapon	1	1						1		
Assault with intent to murder...	18	15	3				13	2		
Assault with intent to ravish	1			1						
Attempt to poison	2	1	1				1			
Bastardy	1	1						1		
Betting at cards	2	2						1		1
Betting at dice	2	2								2
Burglary	25	22	3				22			
Burglary and grand larceny.....	1	1					1			
Concealed weapons	78	60	11	6	1			23		37
Contempt	13	13								13
Cruelty to animals	2			2						
Defamation	1	1								1
Defaulting road hand	1	1								1
Depositing dead animal in stream	1		1							
Disposing of personal property..	1		1							
Disturbing religious worship.....	13	9	3	1						9
Disturbing women	4	4						1		3
Enticing away laborer	1		1							
False pretense	2	2						1		1
Forfeitures	31	31								31
Gaming	32	27	1	4				3		24
Incest	1	1					1			
Larceny, grand	50	36	8	4	2		36			
Larceny, petit	39	31	5	3				5		26
Manslaughter, first degree	6	5	1				4	1		
Manslaughter, second degree.....	2	2						1		1

SECOND JUDICIAL CIRCUIT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Medicine, practicing without license	1	1	1	1	1					
Moving seed cotton	1			1						
Murder, first degree	13	7	5	1		2	5			
Murder, second degree	11	9	2				9			
Playing cards on Sunday	14	9		5				1		8
Presenting gun	8	8								8
Public drunkenness	9	9								9
Robbery	1	1					1			
Selling liquor without license	38	28	6	4				11		17
Selling mortgaged property	3	2	1					1		1
Shooting on or across public road	4	4								4
Sunday breaking	20	20						1		19
Throwing at railroad car	2	2						2		
Train wrecking	1	1					1			
Trespass after warning	3	2	1					1		1
Unlawful injury to animal	5	3	1	1						3
Violating prohibition law	1	1								1
Violating revenue law	1		1							
Violating stock law	1	1								1
Wanton injury to animal	2	2						1		1
Wantonly killing animal	1			1						
Total	622	512	65	42	3	2	96	76		338

Percentage of convictions in cases disposed of, 82.

Predominant crime, Concealed Weapons.

THIRD JUDICIAL CIRCUIT.

THIRD JUDICIAL CIRCUIT.

THIRD JUDICIAL CIRCUIT—*Continued.*

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Insane Asylum.	Pardoned.
						Death.	Penitentiary.	Hard labor.	Jail.			
Disposing property under lien	2	2								2		
Distilling	1	1								1		
Disturbing religious worship	3	2			1			1		1		
Embezzlement	9	5	2	2				1		4		
False pretense	18	6	7	3	2		2			4		
Forgery, first degree	1			1								
Forgery, second degree	7	5		2			4					1
Gaming	3	3								3		
Giving liquor to minor	1	1								1		
Injuring church	1	1								1		
Keeping gaming table	2	1		1			1					
Kidnapping	1			1								
Larceny, grand	107	83	13	10	1		78			5		
Larceny, petit	69	45	13	9	2			16		29		
Malicious mischief	1	1						1				
Manslaughter, first degree	6	6					5	1				
Murder, first degree	26	13	8	5		3	10					
Murder, second degree	8	6	2				6					
Obtaining money, false pretense	2	2					1			1		
Perjury	1		1									
Playing cards public place	14	14								14		
Playing dice, public place	1	1						1				
Presenting gun	5	2	3					1		1		
Public drunkenness	3	3								3		
Rape	4	4					4					
Receiving stolen property	7	2	2	3						2		
Removing property under lien	4	4						2		2		
Resisting officer	1			1								
Retailing	16	4	10	2						4		
Riding on train without ticket	1	1								1		
Seduction	2	1		1			1					
Selling mortgaged property	6	2	1	3						2		
Selling unwholesome meat	1	1								1		
Severing from freehold	1	1								1		
Shooting across public road	2		1	1								

THIRD JUDICIAL CIRCUIT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				penitentiary	Hard labor.	Jail.	penitentiary	Insane Asylum.	Pardoned.
						Death.	Penitentiary.	Hard labor.	Jail.						
Temporary use of animal..	1	1	...	...	...	...	...	...	1	...	...	...	...	...	...
Trespass after warning ...	7	5	...	2	...	...	...	...	3	...	...	...	2	...	...
Unlawful injury to animal.	5	3	2	...	...	...	...	...	...	...	...	...	3	...	...
Vagrancy	4	2	1	1	...	...	...	...	1	...	...	...	1	...	...
Violating criminal contract	4	3	1	...	...	...	...	...	2	...	...	...	1	...	...
Violating game law	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Violating revenue law	2	1	...	1	...	...	...	...	...	...	...	...	1	...	...
Violating Sunday law.....	3	2	...	1	...	...	...	...	...	...	...	...	2	...	...
Violating sunrise and sun- set law	4	4	...	...	...	...	...	...	1	...	...	...	3	...	...
Total	763	544	122	83	14	3	204	95	...	240	1	1	...	...	...

Percentage of convictions in cases disposed of, 71.

Predominant crime, Concealed Weapons.

FOURTH JUDICIAL CIRCUIT.

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO

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FOURTH JUDICIAL CIRCUIT.

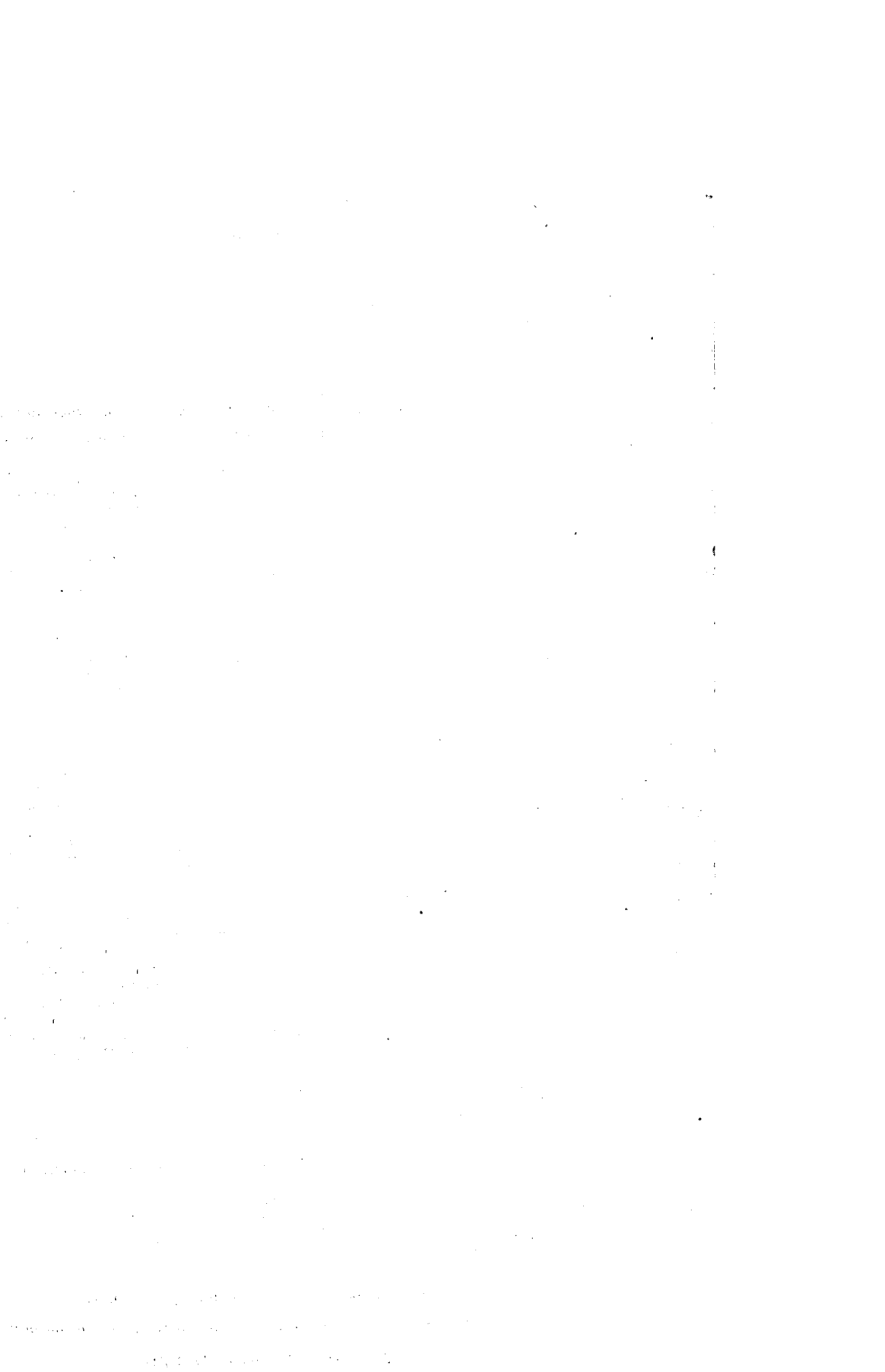
Composed of the Counties of Bibb, Dallas, Hale, Perry, and Wilcox.

Hon. W. W. Quarles, Solicitor, Selma, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Arson, second degree	1	1	...	...	...	...	1	...	...	...
Assault and battery	2	2	...	...	...	...	...	1	...	1
Assault and battery with weapon	61	61	...	...	...	...	4	14	...	43
Assault with weapon	1	1	...	...	...	...	...	...	...	1
Assault with intent to murder.....	15	9	5	...	1	...	8	1	...	...
Assault with intent to ravish....	1	...	1	...	...	...	...	...	...	...
Attempt at burglary	2	2	...	...	...	...	...	2	...	...
Attempt at buying seed cotton....	1	1	...	...	...	...	...	...	...	1
Attempt at grand larceny	3	3	...	...	...	...	...	...	...	3
Bastardy	1	1	...	...	...	...	...	1	...	...
Bigamy	1	1	...	...	...	...	...	1	...	...
Burglary	35	31	2	2	...	...	11	20	...	...
Concealed weapons	42	39	3	...	...	...	...	19	...	20
Cruelty to animals	2	2	...	...	...	...	...	...	...	2
Cutting timber on another's land.	1	1	...	...	...	...	...	...	...	1
Defaulting road hand	2	2	...	...	...	...	...	...	...	2
Forgery, second degree	5	4	...	1	...	...	1	3	...	...
Forgery, third degree	2	2	...	...	...	...	...	1	...	1
Larceny, grand	50	45	5	...	...	...	26	19	...	...
Larceny, petit	13	12	1	...	...	...	...	4	...	8
Manslaughter, first degree	7	7	...	...	...	...	6	1	...	...
Manslaughter, second degree.....	3	3	...	...	...	...	...	...	...	3
Medicine, prac'g. without license.	1	...	1	...	...	...	...	...	...	...
Murder, first degree	18	11	5	2	...	4	7	...	...	...
Murder, second degree	13	12	1	...	...	...	12	...	...	...
Perjury	1	...	...	...	1	...	...	...	...	...
Poisoning well	2	2	...	...	...	...	2	...	...	...
Playing cards	9	9	...	...	...	...	...	...	...	9
Public drunkenness	2	2	...	...	...	...	...	...	...	2
Presenting gun	3	3	...	...	...	...	...	...	...	3
Removing property under lien	1	...	1	...	...	...	...	...	...	...
Robbery	4	2	...	1	1	...	2	...	...	...
Shooting at train	3	3	...	...	...	...	3	...	...	...
Temporary use of property.....	1	1	...	...	...	...	...	1	...	...
Violating prohibition law	5	2	2	1	...	...	...	...	...	2
Total	314	277	27	7	3	4	83	88	...	102

Percentage of convictions in cases disposed of, 88.

Predominant crime, Assault and Battery with Weapon.



FIFTH JUDICIAL CIRCUIT.

Composed of the Counties of Autauga, Chambers, Chilton, Coosa, Elmore,
Macon, Randolph, and Tallapoosa.

Hon. S. L. Brewer, Solicitor, Tuskegee, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	56	51	1	4	...	...	...	1	...	50
Adultery and fornication	12	8	...	4	...	...	...	1	...	7
Affray	34	26	1	7	...	...	...	...	...	26
Arson, first degree	3	2	1	...	...	...	2	...	...	...
Arson, second degree	5	2	3	...	...	...	2	...	...	...
Assault	10	10	...	...	...	...	...	1	...	9
Assault and battery	7	6	1	...	...	...	...	1	...	5
Assault with weapon	83	80	2	1	...	...	...	14	...	66
Assault with intent to murder....	42	28	6	7	1	...	28	...	...	...
Assault with intent to ravish	2	1	...	...	1	...	1	...	...	...
Attempt to poison	1	...	1	...	...	...	...	...	...	...
Bastardy	1	...	1	...	...	...	...	...	...	...
Bigamous adultery	1	1	...	...	...	...	1	...	...	...
Bigamy	3	2	...	1	...	...	2	...	...	...
Breaking fence	1	1	...	...	...	...	...	...	...	1
Burglary	51	44	4	3	...	...	44	...	...	...
Burning woods	1	1	...	...	...	...	...	...	...	1
Carnal knowledge, girl under 10..	2	2	...	...	...	...	2	...	...	...
Compounding felony	2	...	2	...	...	...	...	...	...	...
Concealed weapons	73	54	13	6	...	...	...	15	...	39
Concealing stolen property	2	1	1	...	...	...	...	...	...	1
Defacing building	1	1	...	...	...	...	...	...	...	1
Defaulting road hand	9	4	4	...	1	...	...	...	...	4
Defaulting road overseer	2	1	...	1	...	...	...	...	...	1
Disturbing religious worship.....	25	17	4	3	1	...	...	3	...	14
Disturbing school	1	1	...	...	...	...	...	...	...	1
Embezzlement	1	...	1	...	...	...	...	...	...	...
Enticing away laborer	1	1	...	...	...	...	...	1	...	...
Exhibiting false samples of cot- ton, etc	2	...	...	...	2	...	...	...	...	...
Failure justice of peace to report fines to Treasurer	5	5	...	...	...	...	...	...	...	5
False personation	1	...	...	1	...	...	...	...	...	...
False pretense	4	4	...	...	...	...	1	1	...	2
Forgery, second degree	5	2	1	2	...	...	2	...	...	...
Gaming	3	...	1	2	...	...	...	...	...	...
Harboring escaped convict	1	1	...	...	...	...	1	...	...	...
Incest	1	...	1	...	...	...	...	...	...	...

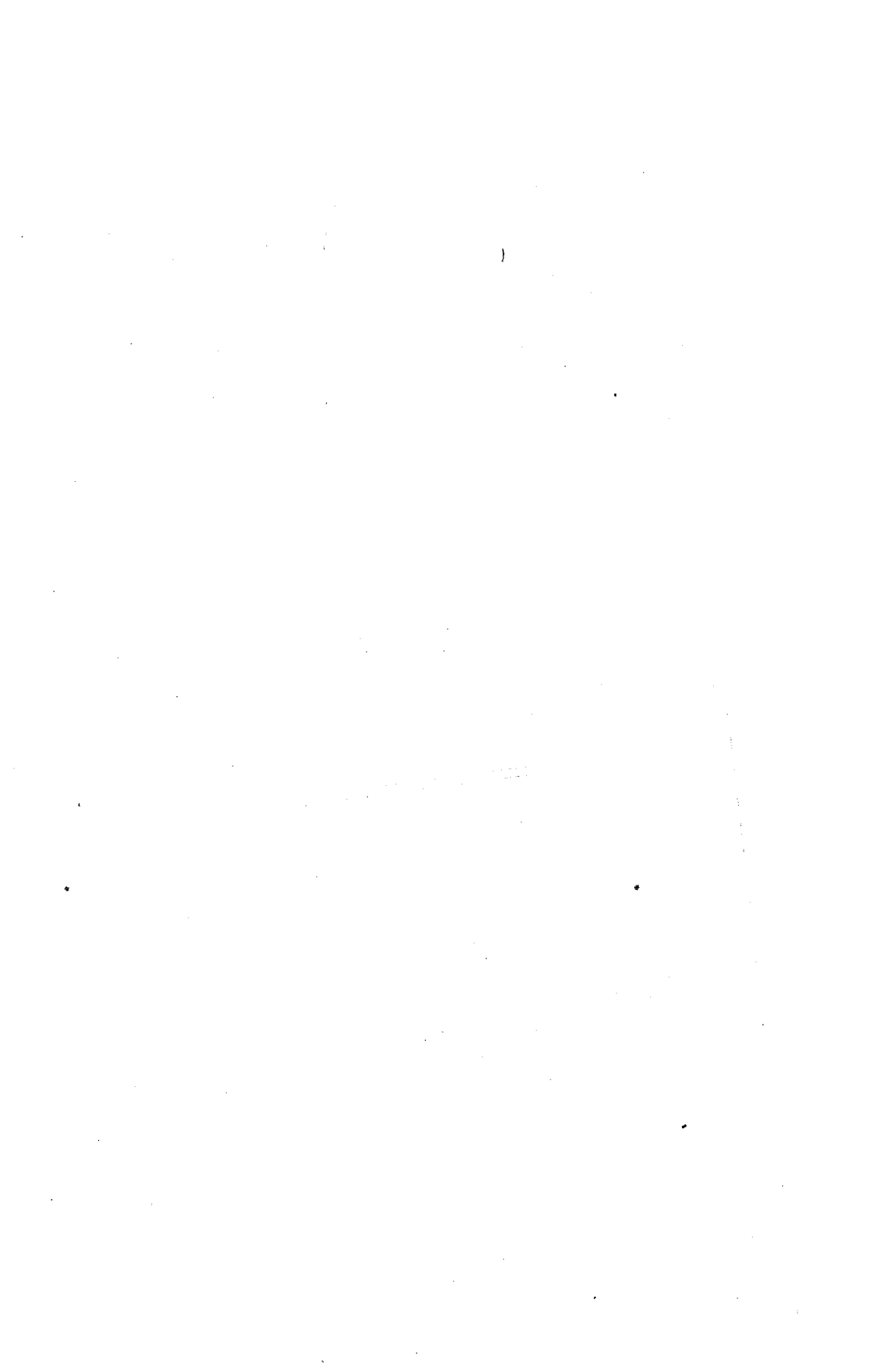
FIFTH JUDICIAL CIRCUIT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Larceny, grand	58	50	5	2	1	...	50	...	...	...
Larceny, petit	32	27	4	1	...	...	...	4	...	23
Manslaughter, second degree	6	6	...	...	...	...	6	...	...	...
Marking hog with intent to de- fraud	1	1	...	...	...	...	...	...	...	1
Medicine, practice without license	1	1	...	...	...	...	...	...	...	1
Miscegenation	2	...	...	1	1	...	...	...	...	...
Murder, first degree	9	6	1	2	...	1	5	...	...	...
Murder, second degree	12	9	3	...	...	...	9	...	...	...
Offer to bribe grand juror	1	1	...	...	...	...	1	...	...	...
Playing cards, public place	12	8	...	4	...	...	...	...	...	8
Playing cards on Sunday	12	9	...	3	...	...	...	...	...	9
Presenting gun	7	3	3	1	...	...	...	...	...	3
Public drunkenness	12	11	1	...	...	...	...	2	...	9
Rape	1	1	...	...	...	...	1	...	...	...
Removing property under lien	3	2	1	...	...	...	1	1	...	...
Resisting officer	1	...	1	...	...	...	...	...	...	...
Rocking train	2	2	...	...	...	...	2	...	...	...
Seduction	3	...	...	3	...	...	...	...	...	...
Selling liquor to minor	1	...	1	...	...	...	...	...	...	...
Selling liquor without license	7	5	2	...	...	...	...	1	...	4
Selling mortgaged property	1	1	...	...	...	...	...	...	...	1
Selling pistol to minor	1	...	...	1	...	...	...	...	...	...
Selling personal property lien	1	1	...	...	...	...	1	...	...	...
Shooting on, or across public road	7	3	4	...	...	...	...	...	...	3
Shooting on Sunday	2	2	...	...	...	...	...	...	...	2
Shooting on train	1	1	...	...	...	...	...	...	...	1
Unlawful injury to animal	1	1	...	...	...	...	...	...	...	1
Using property temporarily	1	1	...	...	...	...	...	...	...	1
Violating contract	1	1	...	...	...	...	...	...	...	1
Violating prohibition law	20	13	5	2	...	...	...	4	...	9
Violating Sunday law	6	6	...	...	...	...	...	1	...	5
Violating sunset and sunrise law	1	1	...	...	...	...	...	...	...	1
Wanton injury to animal	3	3	...	...	...	...	...	...	...	3
Wanton injury to buggy	1	1	...	...	...	...	...	...	...	1
Total	684	534	80	62	8	1	162	51	...	320

Percentage of convictions in cases disposed of, 78.

Predominant crime, Assault with Weapon.

SIXTH JUDICIAL CIRCUIT.



SIXTH JUDICIAL CIRCUIT.

Composed of the Counties of Fayette, Greene, Lamar, Pickens, Sumter,
and Tuscaloosa.

Hon. W. B. Oliver, Solicitor, Tuscaloosa, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	22	17	1	4	...	...	...	1	...	16
Adultery and fornication	4	3	...	1	...	...	...	1	...	2
Affray	7	7	...	...	...	...	...	1	...	6
Assault and battery	27	25	2	...	...	...	...	...	...	25
Assault and battery with weapon	53	49	2	2	...	...	...	5	...	44
Assault with intent to murder	9	5	1	3	...	...	4	1	...	...
Assault with intent to ravish	1	1	...	...	...	...	1	...	...	...
Attempt to commit felony	1	1	...	...	...	...	...	...	...	1
Burglary	33	31	...	2	...	...	12	19	...	...
Carrying on lottery	1	1	...	...	...	...	...	...	...	1
Concealed weapons	63	43	6	13	1	...	...	6	...	37
Cruelty to animals	1	1	...	...	...	...	...	...	...	1
Decoying away child	1	1	...	...	...	...	...	...	...	1
Defacing public building	2	2	...	...	...	...	...	...	...	2
Defamation	2	2	...	...	...	...	...	1	...	1
Defaulting road apportioner	3	3	...	...	...	...	...	...	...	3
Defaulting road hand	4	2	2	...	...	...	...	...	...	2
Defaulting road overseer	4	4	...	...	...	...	...	...	...	4
Disclosing testimony before the grand jury	3	3	...	...	...	...	...	...	...	3
Disturbing religious worship	22	18	3	1	...	...	...	1	...	17
False pretense	8	6	...	1	1	...	...	2	...	4
Forgery, second degree	4	4	...	...	...	...	4	...	...	...
Forgery, third degree	1	1	...	...	...	...	...	...	...	1
Gaming	43	38	3	2	...	...	...	1	...	37
Larceny, grand	31	28	2	1	...	...	8	17	...	3
Larceny, petit	35	34	...	1	...	...	...	2	...	32
Malicious mischief	2	2	...	...	...	...	...	...	...	2
Manslaughter, first degree	5	5	...	...	...	...	5	...	...	...
Murder, first degree	2	2	...	...	...	...	2	...	...	...
Murder, second degree	4	4	...	...	...	...	4	...	...	...
Obstructing public justice	1	1	...	...	...	...	...	...	...	1
Obstructing railroad train	1	1	...	...	...	...	1	...	...	...
Perjury	4	3	...	1	...	...	3	...	...	...
Public drunkenness	45	44	...	1	...	...	...	...	...	44
Public profanity	1	1	...	...	...	...	...	...	...	1
Removing mortgaged property ..	5	4	1	...	...	...	...	...	...	4

SIXTH JUDICIAL CIRCUIT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Receiving stolen property	1	1	...	...	...	...	...	...	...	1
Resisting officer	2	2	...	...	...	...	...	...	...	2
Robbery	1	...	1	...	...	...	...	...	...	...
Selling liquor to minor	3	2	1	...	...	...	...	1	...	1
Shooting on or across public road	10	7	...	2	1	...	...	...	...	7
Making orders in prohibition dist.	6	6	...	...	...	...	...	...	...	6
Temporary use of animal	3	3	...	...	...	...	...	2	...	1
Throwing at railroad train	1	1	...	...	...	...	...	...	...	1
Trespass	1	...	1	...	...	...	...	...	...	...
Trespass after warning	4	2	1	1	...	...	...	...	...	2
Unlawful injury to animal	3	2	...	1	...	...	...	...	...	2
Vagrancy	1	...	...	1	...	...	...	...	...	...
Violating labor contract	4	4	...	...	...	...	...	3	...	1
Violating prohibition law	60	44	6	10	...	...	...	4	...	40
Violating revenue law	18	8	3	7	...	...	...	...	...	8
Violating Sunday law	17	17	...	...	...	...	...	...	...	17
Total	590	496	36	54	4	...	44	68	...	384

Percentage of convictions in cases disposed of, 84.

Predominant crime, Concealed Weapons.

SEVENTH JUDICIAL CIRCUIT.

SEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Calhoun, Clay, Cleburne, Shelby, St. Clair,
and Talladega.

Hon. Joseph B. Graham, Solicitor, Talladega, Ala.

CHARACTER OF OFFENSE.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	10	8	1	1	...	...	...	...	...	8
Affray	1	1	...	...	...	...	...	...	...	1
Allowing stock to run at large....	1	1	...	...	...	...	...	...	...	1
Assault and battery	7	6	1	...	...	...	...	...	...	6
Assault with weapon	6	5	1	...	...	...	...	2	...	3
Assault with intent to murder ...	5	3	...	2	...	...	3	...	...	...
Assault with intent to ravish	2	2	...	...	...	...	2	...	...	...
Burglary	3	1	...	...	2	...	1	...	...	...
Burglary and grand larceny	1	1	...	...	...	...	1	...	...	...
Carnal knowledge, girl under 10..	1	...	...	...	1	...	...	...	...	...
Concealed weapons	6	4	...	2	...	...	...	...	...	4
Disturbing religious worship	7	4	1	2	...	...	...	...	...	4
Disturbing school	1	...	...	1	...	...	...	...	...	...
False pretense	2	...	1	...	1	...	...	...	...	...
Forgery, second degree	2	1	...	...	1	...	1	...	...	...
Gaming	3	...	...	...	...	...	...	...	...	...
Gaming on Sunday	12	6	1	5	...	...	...	1	...	5
Giving liquor to minor	1	...	1	...	...	...	...	...	...	...
Larceny, grand	8	6	...	2	...	...	6	...	...	...
Larceny, petit	4	3	...	1	...	...	...	1	2	...
Malicious mischief	1	...	1	...	...	...	...	...	...	...
Manslaughter, first degree	2	1	1	...	...	...	1	...	...	...
Marking hog	1	1	...	...	...	...	...	1	...	...
Medicine, practice without license	2	1	...	1	...	...	...	...	...	1
Murder, second degree	7	3	1	1	2	...	3	...	...	...
Perjury	1	1	...	...	...	...	1	...	...	...
Presenting gun	1	1	...	...	...	...	...	...	...	1
Public drunkenness ..	13	11	1	1	...	...	...	...	...	11
Robbery	1	1	...	...	...	...	1	...	...	...
Selling liquor without license	13	8	2	3	...	...	...	5	...	3
Selling mortgaged property	2	...	...	2	...	...	...	...	...	...
Shooting on Sunday	1	1	...	...	...	...	...	...	...	1

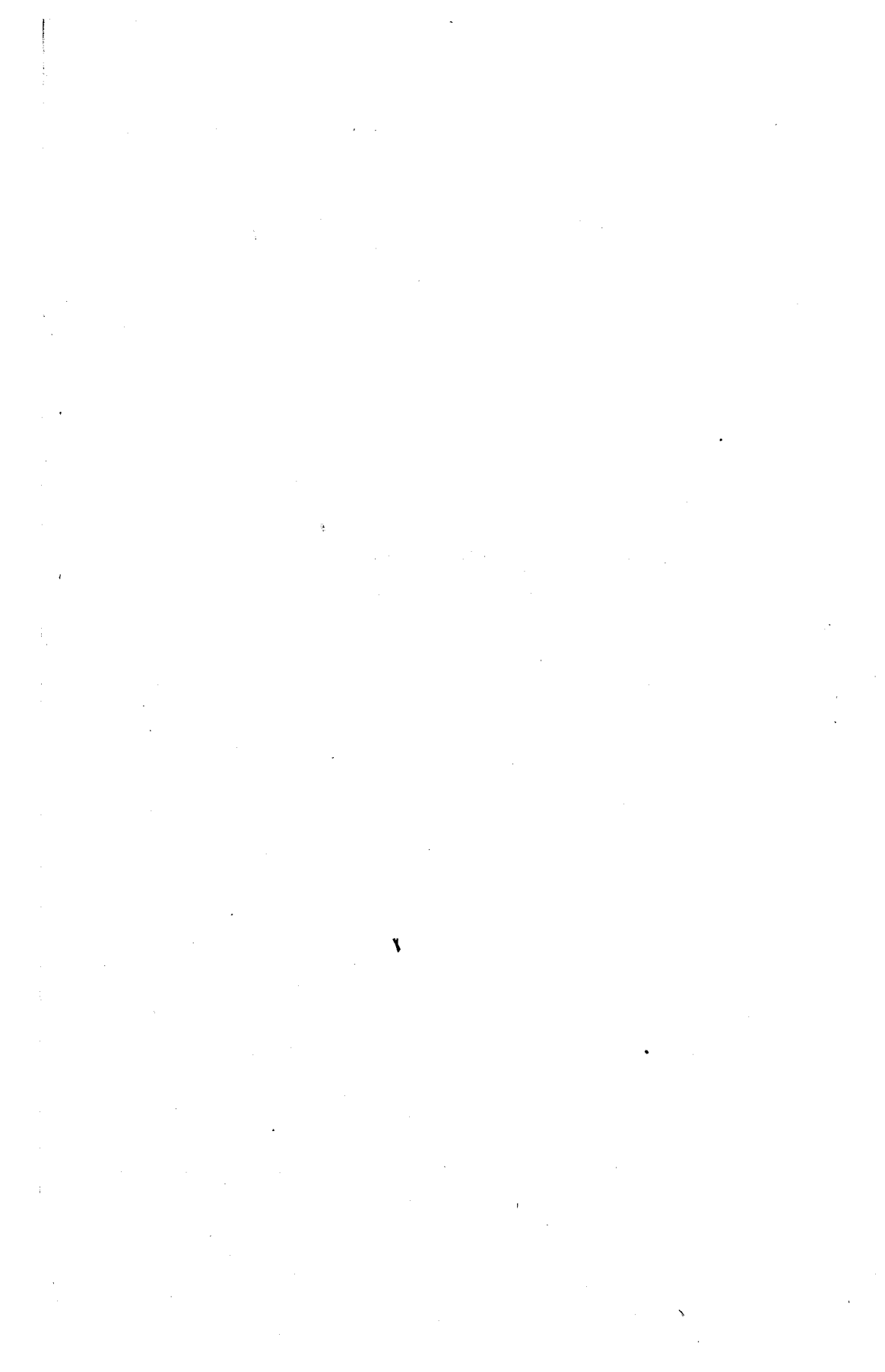
SEVENTH JUDICIAL CIRCUIT—Continued.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Taking orders in prohibition district	4	3	...	1	...	...	...	...	...	3
Temporary use of animal	1	1	...	...	...	...	...	...	...	1
Trespass	6	1	3	2	...	...	...	...	...	1
Violating prohibition law	14	12	...	2	...	...	...	7	...	5
Violating Sunday law	2	2	...	...	...	...	...	...	...	2
Total	155	100	16	32	7	...	20	17	2	61

Percentage of convictions in cases disposed of, 65.

Predominant crime, Violating Prohibition Law.

EIGHTH JUDICIAL CIRCUIT.



EIGHTH JUDICIAL CIRCUIT.

Composed of the Counties of Cullman, Lawrence, Limestone, Madison
and Morgan.

Hon. R. H. Lowe, Solicitor, Huntsville, Ala.

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EIGHTH JUDICIAL CIRCUIT—Continued.

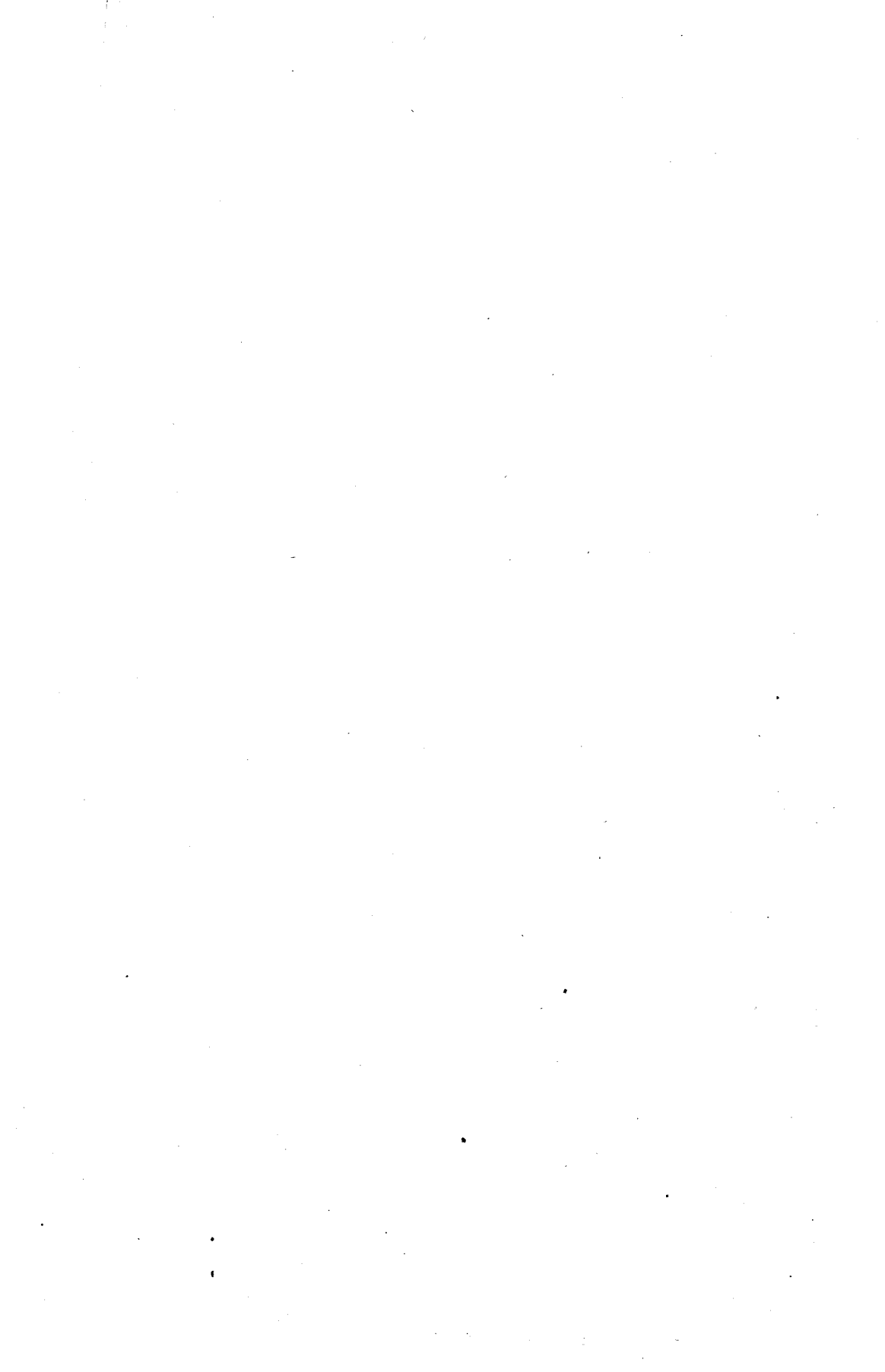
Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Debt and costs paid.	Reformatory.
						Death.	Penitentiary.	Hard labor.	Jail.			
Obtaining money under false pretense	4	...	...	4	...	...	...	...	...	...	...	...
Perjury	2	...	2	...	...	...	...	...	...	...	...	...
Public drunkenness	1	1	...	...	...	...	...	...	...	1	...	...
Rape	3	1	...	2	...	...	1	...	...	...	...	...
Removing mortgaged property	2	1	...	1	...	...	1	...	...	...	...	...
Removing property under lien	2	...	1	1	...	...	...	...	...	...	...	...
Robbery	4	4	...	...	...	...	4	...	...	...	...	...
Seduction	4	...	...	3	1	...	...	...	...	...	...	...
Selling liquor to minor....	1	1	...	...	...	...	...	...	...	1	...	...
Selling liquor without license	6	2	2	2	...	...	...	...	...	2	...	...
Selling mortgaged property	5	...	3	2	...	...	...	...	...	...	...	...
Selling property under lien	1	...	1	...	...	...	...	...	...	...	...	...
Trespass after warning....	1	...	...	1	...	...	...	...	...	...	...	...
Violating election law.....	4	...	...	4	...	...	...	...	...	...	...	...
Violating revenue law	2	1	...	1	...	...	...	...	...	1	...	...
Totals	255	117	37	83	18	...	60	9	3	44	1	2

Percentage of convictions in cases disposed of, 46.

Predominant crime, Grand Larceny.

*Fined and sentenced to jail.

NINTH JUDICIAL CIRCUIT.



NINTH JUDICIAL CIRCUIT.

Composed of the Counties of Blount, Cherokee, Etowah, DeKalb, Jackson,
and Marshall.

Hon. R. C. Hunt, Solicitor, Fort Payne, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	58	33	4	21	...	...	...	3	...	30
Adultery and fornication	17	5	1	9	2	...	...	2	...	3
Affray	4	3	1	...	...	...	...	...	...	3
Altering mark or brand	2	1	...	1	...	...	...	...	...	1
Arson, second degree	3	1	...	2	...	...	1	...	...	...
Assault	45	30	6	8	1	...	...	5	3	*25
Assault with weapon	6	4	2	...	...	...	...	...	...	4
Assault with intent to murder...	11	...	1	8	2	...	...	...	...	...
Bastardy	2	1	1	...	...	...	...	1	...	...
Breaking fence	1	...	...	1	...	...	...	...	...	...
Burglary	13	8	...	2	3	...	8	...	...	...
Burglary and grand larceny	2	2	...	...	...	...	2	...	...	...
Burning insured house	1	1	...	...	...	...	...	1	...	...
Concealed weapons	91	23	23	29	16	...	...	2	...	21
Contempt	1	...	...	1	...	...	...	...	...	...
Defamation	1	...	...	1	...	...	...	...	...	...
Defaulting road hand	1	...	1	...	...	...	...	...	...	...
Dentistry, practicing without license	1	1	...	...	...	...	...	...	...	1
Disposing liquor on election day ..	1	1	...	...	...	...	...	...	...	1
Disturbing religious worship	26	15	5	5	1	...	...	...	...	15
Disturbing school	1	1	...	...	...	...	...	...	...	1
Disturbing women	3	2	...	1	...	...	...	...	...	2
Embezzlement	6	2	1	3	...	...	2	...	...	...
Engaging in business without license	2	1	...	1	...	...	...	...	...	1
False pretense	7	4	...	3	...	...	1	2	...	1
Forgery, third degree	1	1	...	...	...	...	...	...	1	...
Gaming	6	...	1	5	...	...	...	...	...	...
Infanticide	1	...	...	1	...	...	...	...	...	...
Keeping bawdy house	1	...	...	1	...	...	...	...	...	...
Keeping ferry without license	1	...	1	...	...	...	...	...	...	...
Larceny, grand	15	5	2	6	2	...	5	...	...	...
Larceny, petit	17	2	4	10	1	...	...	...	...	2
Malicious mischief	3	1	1	1	...	...	...	...	...	1

NINTH JUDICIAL CIRCUIT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of.	Convictions.	Acquittal.	Nolle prosequies.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Manslaughter, first degree	2	2	...	...	...	...	2	...	...	...
Manslaughter, second degree	1	1	...	...	...	...	...	...	...	1
Medicine, practice without license	3	3	...	...	...	...	...	1	...	2
Murder, first degree	2	...	2	...	...	...	...	...	...	...
Murder, second degree	9	6	2	1	...	...	6	...	...	...
Obstructing public road	2	2	...	...	...	...	...	...	...	2
Playing cards on Sunday	5	2	1	2	...	...	...	...	...	2
Presenting gun	2	1	...	1	...	...	...	...	...	1
Public drunkenness	29	14	4	11	...	...	...	...	...	14
Rape	2	1	1	...	...	...	1	...	...	...
Seduction	4	1	2	1	...	...	1	...	...	...
Selling cigarettes to minor	8	8	...	...	...	...	...	...	...	8
Selling cigarette tobacco	4	2	2	...	...	...	...	...	...	2
Selling liquor to minor	13	4	3	6	...	...	2	...	...	2
Selling liquor without license....	110	36	20	51	3	...	...	9	1	*27
Selling mortgaged property	9	...	...	9	...	...	...	...	...	...
Selling pistol to minor	1	...	...	1	...	...	...	...	...	...
Shooting on or across public road	7	6	...	1	...	...	...	...	...	6
Shooting on Sunday	5	4	1	...	...	...	...	...	...	4
Taking order for liquor, etc.....	3	...	1	2	...	...	...	...	...	...
Trespass	3	1	1	1	...	...	...	...	...	1
Trespass after warning	3	...	...	3	...	...	...	...	...	...
Trespass by cutting timber	3	...	2	...	1	...	...	...	...	...
Trespass by stock, etc	5	...	...	...	5	...	...	...	...	...
Unlawful injury to animal	3	1	...	2	...	...	...	...	...	1
Vagrancy	2	...	2	...	...	...	...	...	...	...
Whipping wife	2	2	...	...	...	...	...	...	...	2
Total	593	245	99	212	37	...	29	28	5	187

Percentage of convictions in cases disposed of, 41.

Predominant crime, Selling liquor without license.

*Fined and sentenced to jail.

TENTH JUDICIAL CIRCUIT.



TENTH JUDICIAL CIRCUIT.

Composed of the Counties of Jefferson, Walker, and Winston.

Hon. C. W. Ferguson, Solicitor, Birmingham, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	9	6	...	3	...	...	...	...	...	6
Adultery and fornication	2	...	...	2	...	...	...	...	...	...
Affray	1	1	...	...	...	...	...	...	...	1
Aiding prisoner to escape	1	...	...	1	...	...	...	...	...	...
Arson, third degree	2	1	...	1	...	...	...	...	...	1
Assault and battery	8	8	...	...	...	...	...	...	...	8
Assault and battery with weapon	6	6	...	...	...	...	...	...	...	6
Assault with intent to murder ..	7	1	2	2	2	...	1	...	...	...
Assault with intent to ravish.....	4	3	...	1	...	...	3	...	...	...
Attempt to commit forgery.....	1	1	...	...	...	...	...	...	...	1
Bigamy	1	...	...	...	1	...	...	...	...	...
Burglary	2	...	...	1	1	...	...	...	...	...
Burglary and grand larceny.....	4	1	1	1	1	...	1	...	...	...
Camp hunting in Winston county	1	1	...	...	...	...	...	...	...	1
Carnal knowledge, girl over 10....	1	1	...	...	...	...	...	...	1	...
Concealed weapons	10	6	1	1	2	...	...	2	...	4
Defamation	2	1	1	2	...	...	...	...	...	1
Defaulting road overseer	2	1	...	1	...	...	...	...	...	1
Disturbing religious worship	2	1	...	1	...	...	...	...	...	1
Embezzlement	2	2	...	...	...	...	2	...	...	...
Escape	2	2	...	...	...	...	...	...	...	2
Forgery, second degree	3	...	...	2	1	...	...	...	...	...
Gaming	2	1	...	1	...	...	...	...	...	1
Incest	1	1	...	...	...	...	1	...	...	...
Larceny, grand	3	1	1	1	...	...	1	...	...	...
Larceny, petit	5	3	2	...	...	...	...	1	...	2
Malicious mischief	1	...	...	1	...	...	...	...	...	...
Malicious injury to property.....	1	1	...	...	...	...	...	...	...	1
Manslaughter, first degree	1	1	...	...	...	...	1	...	...	...
Medicine, practicing without license	2	2	...	...	...	...	...	...	...	2
Murder, first degree	7	4	2	...	1	1	3	...	...	...
Murder, second degree	5	2	2	1	...	...	2	...	...	...
Obstructing public justice	1	1	...	...	...	...	...	...	...	1
Perjury	1	...	...	...	1	...	...	...	...	...
Public drunkenness	5	3	1	1	...	...	...	...	...	3

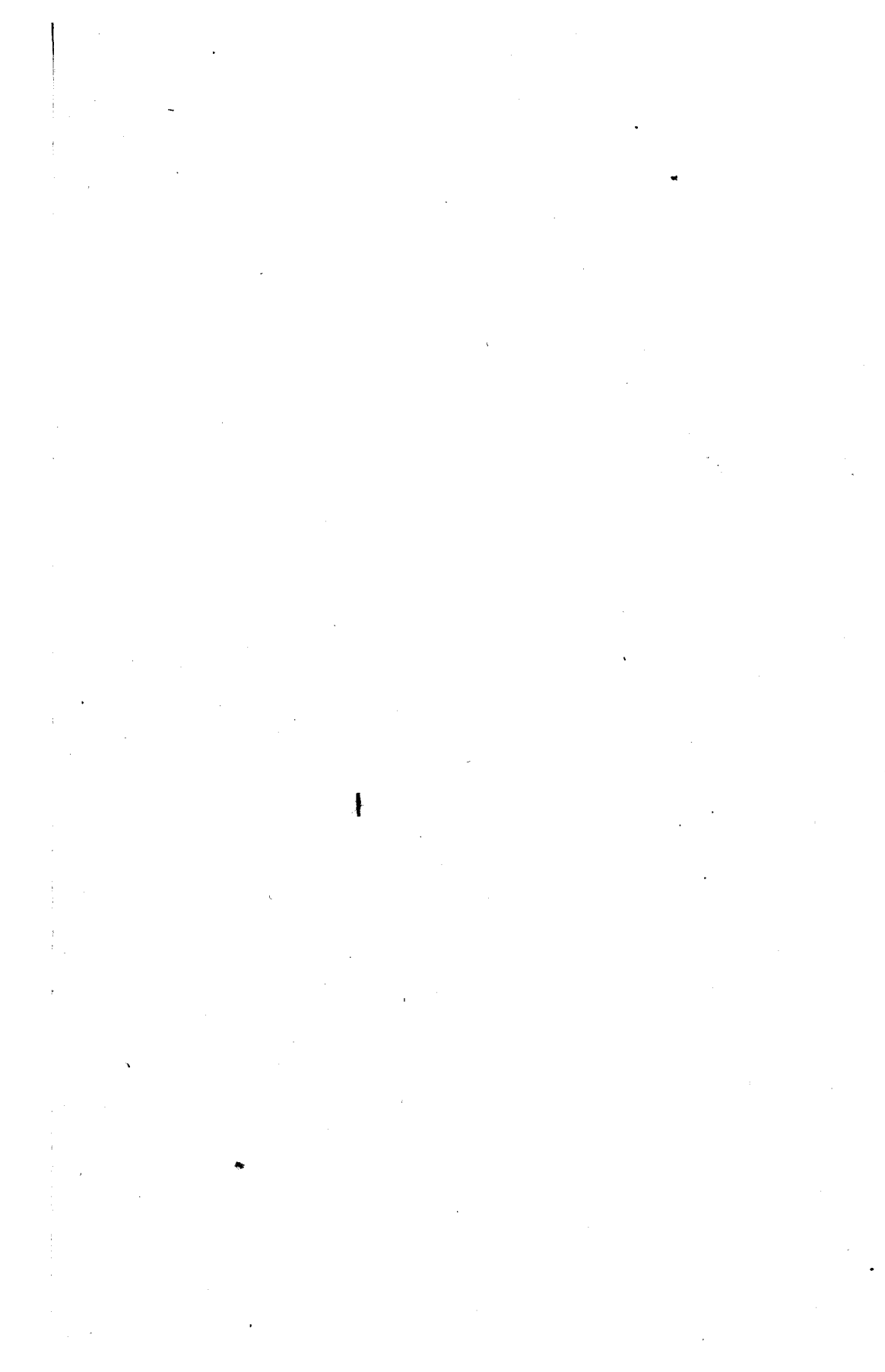
TENTH JUDICIAL CIRCUIT—*Continued.*

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Rape	1	...	...	1	...	...	...	...	...	...
Receiving stolen property	1	...	...	1	...	...	...	...	...	...
Road defaulter	1	...	1	...	...	...	...	...	...	...
Seduction	1	...	1	...	...	...	...	...	...	...
Selling liquor to minor	1	...	1	...	...	...	...	...	...	...
Sending threatening letter	1	1	...	...	...	...	...	...	...	1
Violating loca. prohibition law..	1	...	1	...	...	...	...	...	...	...
Violating local law	1	...	...	1	...	...	...	...	...	...
Violating revenue law	3	1	1	1	...	...	...	...	...	1
Total	121	65	18	28	10	1	15	3	1	45

Percentage of convictions in cases disposed of, 54.

Predominant crime, Concealed Weapons.

ELEVENTH JUDICIAL CIRCUIT.



ELEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Colbert, Franklin, Lauderdale, and Marion.

Hon. W. H. Sawtelle, Solicitor, Tuscumbia, Ala.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Reform School.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive language	36	19	3	14	...	...	...	...	...	19	...
Adultery and fornication	12	8	...	4	...	...	...	3	...	5	...
Assault	21	15	...	6	...	...	...	1	...	14	...
Assault and battery	3	1	1	1	...	...	...	...	...	1	...
Assault with weapon	51	37	4	10	...	...	...	6	...	31	...
Assault with intent to murder	11	4	2	5	...	...	4	...	...	...	...
Attempt to commit arson	2	2	...	...	...	...	2	...	...	...	...
Attempt to escape jail	1	1	...	...	...	...	...	...	...	1	...
Bastardy	1	1	...	...	...	...	...	1	...	...	...
Bigamy	2	2	...	...	...	...	2	...	...	...	...
Burglary	24	15	2	7	...	...	14	...	...	...	1
Carnal knowledge, girl under 10	1	1	...	...	...	...	1	...	...	...	...
Carnal knowledge, girl over 10	1	1	...	...	...	...	...	1	...	...	...
Concealed weapons	76	43	11	22	...	...	...	14	...	29	...
Cruelty to animals	1	1	...	...	...	...	...	...	...	1	...
Defamation	2	2	...	...	...	...	...	1	...	1	...
Defaulting road hand	2	2	...	...	...	...	...	...	...	2	...
Defaulting road overseer	3	...	...	3	...	...	...	...	...	...	...
Distilling	1	1	...	...	...	...	...	...	...	1	...
Disturbing assembly	1	...	...	1	...	...	...	...	...	...	...
Disturbing religious worship	18	7	6	5	...	...	...	1	...	6	...
Disturbing women	13	10	...	3	...	...	...	...	...	10	...
Embezzlement	1	1	...	...	...	...	...	...	...	1	...
Employing minor to sell liquor	1	...	...	1	...	...	...	...	...	...	...
Failure to perform contract	1	1	...	...	...	...	...	1	...	...	...
Forgery, second degree	2	1	...	1	...	...	1	...	...	...	...
Gaming	53	36	5	12	...	...	...	4	...	32	...
Giving liquor to minor	1	1	...	...	...	...	...	...	...	1	...
Horse racing on public road	2	2	...	...	...	...	...	...	...	2	...
Indecent exposure of person	1	1	...	...	...	...	...	...	...	1	...
Keeping bawdy house	1	...	...	1	...	...	...	...	...	...	...
Keeping open store	2	2	...	...	...	...	...	...	...	2	...
Keeping sheep-killing dog	2	1	...	1	...	...	...	...	...	1	...
Larceny, grand	41	32	1	8	...	...	32	...	...	...	...
Larceny, petit	20	12	2	6	...	...	...	3	1	8	...
Malicious mischief	2	...	...	2	...	...	...	...	...	...	...

ELEVENTH JUDICIAL CIRCUIT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittal.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Reform School.
						Death.	Penitentiary.	Hard labor.	Jail.		
Manslaughter, second degree..	1	1	...	...	...	...	...	...	1	...	...
Murder, first degree	3	2	1	...	...	...	2	...	...	...	...
Murder, second degree	6	4	...	2	...	...	4	...	...	...	...
Obtaining goods false pretense.	3	1	...	2	...	...	1	...	...	...	...
Playing cards on Sunday	5	5	...	...	...	...	...	...	...	5	...
Public drunkenness	41	34	1	6	...	...	...	1	...	33	...
Receiving stolen property	1	...	...	1	...	...	...	...	...	...	...
Removing mortgaged property.	1	...	...	1	...	...	...	...	...	...	...
Retailing	41	23	8	10	...	...	2	...	...	21	...
Seduction	1	1	...	...	...	...	1	...	...	...	...
Selling liquor to minor	9	4	1	4	...	...	...	...	...	4	...
Selling liquor without license.	6	1	1	4	...	...	...	...	...	1	...
Shooting on or across public road	4	4	...	...	...	...	...	...	...	4	...
Shooting on Sunday	1	...	1	...	...	...	...	...	...	...	...
Temporary use property	2	1	...	1	...	...	...	...	...	1	...
Trespass	2	1	...	1	...	...	...	...	...	1	...
Vagrancy	1	1	...	...	...	...	...	...	...	1	...
Wanton injury to animal	2	2	...	...	...	...	...	...	...	2	...
Witness failing to appear before grand jury	1	1	...	...	...	...	...	...	...	1	...
Total	548	352	50	146	...	...	64	39	2	246	1

Percentage of convictions in cases disposed of, 64.

Predominant crime, Concealed Weapons.

TWELFTH JUDICIAL CIRCUIT.



TWELFTH JUDICIAL CIRCUIT.

Composed of the Counties of Coffee, Covington, Geneva, Henry, and Pike.

Hon. R. H. Parks, Solicitor, Troy, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive language	25	24	...	1	...	...	...	...	...	24
Adultery and fornication	14	10	2	2	...	...	...	1	...	9
Affray	3	2	...	1	...	...	...	...	...	2
Aiding prisoner to escape	2	2	...	...	...	...	1	...	...	1
Altering mark or brand	1	...	1	...	...	...	...	...	...	...
Arson, second degree	4	2	2	...	...	...	2	...	...	...
Arson, third degree	1	...	1	...	...	...	...	...	...	...
Assault	5	5	...	...	...	...	...	1	...	4
Assault and battery	82	71	5	5	1	...	...	15	...	56
Assault with intent to murder	19	9	3	5	2	...	7	2	...	...
Assault with intent to ravish	2	2	...	...	...	...	2	...	...	...
Assault with intent to rob	2	2	...	...	...	...	2	...	...	...
Attempt to commit felony	1	1	...	...	...	...	...	...	...	1
Bastardy	1	...	1	...	...	...	...	...	...	...
Betting with minor	3	...	...	3	...	...	...	...	...	...
Bigamy	3	2	...	1	...	...	2	...	...	...
Breaking fence	1	...	1	...	...	...	...	...	...	...
Burglary	20	17	3	...	...	...	12	5	...	...
Card playing, public place	8	8	...	...	...	...	...	...	...	8
Concealed weapons	82	59	11	10	2	...	...	13	...	46
Cruelty to animals	1	...	...	1	...	...	...	...	...	...
Defamation	1	1	...	...	...	...	...	...	...	1
Defaulting road hand	2	1	1	...	...	...	...	...	...	1
Disposing property under lien	1	1	...	...	...	...	...	...	...	1
Disturbing religious worship	7	6	...	1	...	...	...	...	...	6
Disturbing women	4	4	...	...	...	...	...	...	...	4
False pretense	9	...	2	7	...	...	...	...	...	...
Felonious adultery	1	1	...	...	...	...	1	...	...	...
Forgery, first degree	2	2	...	...	...	...	2	...	...	...
Forgery, second degree	5	2	1	2	...	...	2	...	...	...
Gaming	46	44	1	1	...	...	...	...	...	44
Injuring public road	2	2	...	...	...	...	...	...	...	2
Larceny, grand	23	20	1	2	...	...	16	4	...	...
Larceny, petit	48	38	2	6	2	...	...	5	...	33
Manslaughter, first degree	4	4	...	...	...	...	4	...	...	...
Manslaughter, second degree	1	1	...	...	...	...	...	...	...	1

TWELFTH JUDICIAL CIRCUIT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Marking sheep	1	...	1	...	...	...	...	...	...	...
Murder, first degree	6	5	...	1	...	1	4	...	...	...
Murder, second degree	15	12	3	...	...	...	12	...	...	...
Obstructing railroad train	4	3	...	...	1	...	3	...	...	...
Perjury	1	1	...	...	...	...	...	1	...	...
Playing cards on Sunday	24	22	1	1	...	...	...	...	...	22
Presenting gun	3	3	...	...	...	...	...	...	...	3
Public drunkenness	16	14	2	...	...	...	...	...	...	14
Rape	4	3	1	...	...	...	3	...	...	...
Retailing	1	10	3	4	...	...	...	...	...	10
Robbery	1	...	1	...	...	...	...	...	...	...
Seduction	2	...	...	2	...	...	...	...	...	...
Selling choking mule	1	1	...	...	...	...	...	...	...	1
Selling liquor without license.....	3	1	1	1	...	...	...	...	...	1
Selling unwholesome meats.....	1	1	...	...	...	...	...	...	...	1
Shooting on or across public road	1	1	...	...	...	...	...	...	...	1
Sunday breaking	1	1	...	...	...	...	...	...	...	1
Trespass	5	2	1	2	...	...	...	...	...	2
Unlawful injury to animal	2	1	...	1	...	...	...	...	...	1
Unlawfully killing animal	1	...	1	...	...	...	...	...	...	...
Using girl for prostitute	1	1	...	...	...	...	1	...	...	...
Vagrancy	1	...	1	...	...	...	...	...	...	...
Violating criminal contract.....	1	1	...	...	...	...	...	1	...	...
Violating prohibition law	5	5	...	...	...	...	...	...	...	5
Violating school law	1	1	...	...	...	...	...	...	...	1
Total	554	432	54	60	8	1	76	48	...	307

Percentage of convictions in cases disposed of, 78.

Predominant crimes, Assault and Battery, and Concealed Weapons.

THIRTEENTH JUDICIAL CIRCUIT.



THIRTEENTH JUDICIAL CIRCUIT.

Composed of the Counties of Baldwin, Mobile, and Washington.

Hon. John W. McAlpine, Solicitor, Mobile, Ala.

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Forfeiture of bond.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive language	11	9	...	2	...	...	...	...	...	9	...
Adultery and fornication	7	1	1	5	...	...	...	1	...	...	...
Affray	1	...	...	1	...	...	...	...	...	...	...
Assault and battery	8	5	2	1	...	...	...	...	...	5	...
Assault and battery, weapon	10	9	...	1	...	...	...	2	...	7	...
Assault with weapon	3	3	...	...	...	...	...	...	...	3	...
Assault, intent to murder	2	2	...	...	...	...	...	2	...	...	...
Assault, intent to ravish	1	...	1	...	...	...	...	...	...	...	...
Bastardy	3	2	...	1	...	...	...	1	...	1	...
Betting at games	6	5	...	1	...	...	...	...	...	5	...
Burglary	9	5	3	1	...	...	2	3	...	...	...
Carnal knowledge, girl under 10	1	1	...	...	...	...	1	...	...	...	...
Concealed weapons	18	12	4	2	...	...	...	3	...	8	1
Defamation	4	...	2	2	...	...	...	...	...	...	...
Disturbing religious worship	4	4	...	...	...	...	...	...	...	4	...
Divulging grand jury secrets	1	1	...	...	...	...	...	...	...	1	...
Forgery, third degree	2	2	...	...	...	...	...	2	...	...	...
Gaming	2	1	1	...	...	...	...	1	...	...	...
Incest	1	1	...	...	...	...	...	1	...	...	...
Larceny, grand	8	5	1	2	...	...	...	5	...	...	...
Larceny, petit	8	6	2	...	...	...	...	...	...	6	...
Libel	2	...	...	2	...	...	...	...	...	...	...
Malicious mischief	2	...	1	1	...	...	...	...	...	...	...
Manslaughter, second degree	2	2	...	...	...	...	...	...	...	2	...
Medicine, practice without a license	2	1	1	...	...	...	...	...	...	1	...
Murder, first degree	3	1	...	2	...	...	1	...	...	...	...
Murder, second degree	7	3	2	2	...	...	3	...	...	...	...
Obstructing stream	1	...	...	1	...	...	...	...	...	...	...
Open store on Sunday	2	1	...	1	...	...	...	...	...	1	...
Owning sheep-killing dog	2	...	...	2	...	...	...	...	...	...	...
Peddling without license	1	...	...	1	...	...	...	...	...	...	...
Perjury	4	...	4	...	...	...	...	...	...	...	...
Presenting gun	2	...	...	2	...	...	...	...	...	...	...
Public drunkenness	10	7	...	3	...	...	...	...	...	7	...

THIRTEENTH JUDICIAL CIRCUIT—*Continued.*

Character of Offense.	No. cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	No. sentences to				Fines paid or secured.	Forfeiture of bond.
						Death.	Penitentiary.	Hard labor.	Jail.		
Receiving stolen property	2	2	...	...	...	...	...	...	...	2	...
Removing mortgaged property	1	...	1	...	...	...	...	...	...	...	...
Removing rent cotton	2	...	...	2	...	...	...	...	...	...	...
Seduction	1	...	...	1	...	...	...	...	...	...	...
Selling property to hinder, etc	2	...	...	2	...	...	...	...	...	...	...
Selling liquor to minor	1	...	...	1	...	...	...	...	...	...	...
Sodomy	1	1	...	...	...	...	1	...	...	...	...
Temporary use of animal	1	...	1	...	...	...	...	...	...	...	...
Trespass after warning	3	...	1	2	...	...	...	...	...	...	...
Unlawfully killing animal	3	2	...	1	...	...	...	...	...	2	...
Violating revenue law	8	1	5	2	...	...	...	...	...	1	...
Total	175	95	33	46	1	...	8	21	...	63	1

Percentage of convictions in cases disposed of, 55.

Predominant crime, Concealed Weapons.

MONTGOMERY, ALA., June 8, 1899.

GOV. JOS. F. JOHNSTON,

At Office.

DEAR SIR:

Your favor of yesterday received, enclosing letter of Mr. J. deB. Hooper, Chief Mine Inspector, asking an opinion "on the method to be adopted by me" (said Chief Mine Inspector) "for the protection of miners working in dangerous and badly ventilated mines, when the owners failed to comply with the requirements of the Chief Mine Inspector."

In reply I have the honor to submit the following opinion. The statute law on the subject is contained in chapter 78, pp. 842 to 850, inclusive, of the Code of 1896, and an Act "to further regulate the mining of coal in Alabama," approved February 23rd, 1899,—Acts of Alabama, 1898-99, p. 86. This act does not apply to the counties of Bibb, Etowah, St. Clair, Jefferson, Tuscaloosa, Walker, Marion, Shelby, Cullman and Madison, and has no bearing on the question submitted. "The methods to be adopted for the protection of miners working in dangerous and badly ventilated mines" may be classified under two heads. First: Those which are clearly expressed and provided in the statute and are made mandatory by the statute; and second: Those directions which the Chief Mine Inspector shall adopt and give in writing (subject to the approval of the Board of Examiners) to the owners, mine operators, or general managers of mines.

Before referring to the sections of the Code coming under these two separate heads, or divisions, it may be well to call attention and quote certain provisions of the law as to the duties of the Inspectors bearing on the questions propounded. It is made the duty of the Inspectors by section 2901 of the statute to examine all the mines in the State every three months, to

see that all the *requirements of the statute are strictly observed and carried out*; to particularly examine the works and machinery belonging to any mine, examine into the state of the mines as to ventilation, circulation and condition of air, drainage and general security; and to *make a record* of all examinations, showing the date thereof, the condition in which the mines are found, the extent to which the laws relating to mines and mining are observed, or violated, the progress made in the improvement and security of life and health sought to be secured by the provisions of the statute, the number of accidents, injuries received or deaths in or about the mines. Attention is called to these highly important and conservative provisions of the law not because the writer of this opinion has any reason to believe, or has received any information, rumor, report or suggestion that these duties have not been faithfully and conscientiously performed and discharged by the Inspectors; but as admonitory of their paramount importance in securing the protection of miners working in dangerous and badly ventilated mines, and the absolute necessity for their observance, so as to secure successful prosecution of the violators of this law, and the strict enforcement of its penal sanctions.

I will briefly refer to and cite the provisions of the statute coming under the first head, or division, those which are clearly expressed, provided and commanded in and by the statute,—as applicable to the question before us,—namely: Sections 2912, 2911, 2918, 2919, 2920, 2921, 2922, 2923, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2933.—Where the express, direct and mandatory provisions of these sections are violated, or not complied with by the owner, lessee, agent, or operator, of any mine it is the duty of the Inspector to immediately notify such owner, lessee, or agent in charge of such neglect; and unless the same is within a reasonable time rectified, or the provisions of this statute are fully complied with, the Inspector shall institute a prosecution, and it would be the duty of the solicitor charged with the enforcement of the criminal law to prosecute the same.

This notice should be in writing as is required in analogous provisions of the statute and as a matter of precaution so as to avoid conflicts in any oral proof of its contents.

What would be "reasonable time" as provided in the statute would depend on the nature of the statute violated, the condition of the mine, etc., and all the circumstances of the case.

I will now refer to and cite the sections of the statute coming under the second head, or division, those directions which the law requires the Chief Mine Inspector to adopt and *give in writing* to the owner, mine-operator, or general manager of the mines, subject to the approval of the Board of Examiners, namely: Sections 2915, 2924, 2934, and 2935 of the Code of 1896. It is to be observed that section 2915 refers specially to the sufficient ventilation of mines, and section 2924 to the method of working gaseous mines and the manner of working and propping the roof in any and all mines, and section 2934 refers to in cases where the Inspector finds any matter or thing, or practice, in or connected with any such mines to be dangerous or defective, so as to in his opinion threaten or tend to the bodily injury of any person, which in any respect is not provided against, or may result from any rigid enforcement of any expressed provision of this chapter. It will be noted that section 2924 is the only one requiring the approval of the Board of Examiners to the directions of the Inspector, but it is suggested that in any case of doubt he can advise with the Board of Examiners and obtain its approval of his directions as is provided in case of controversy between the Inspectors and owners, or operator of any mine, or persons working therein.

Now as to the method of procedure in cases coming under the second head, or division. In this class of cases the Chief Mine Inspector should in writing give notice to the parties named, of the defects, etc., stating the particulars in which he considers such mine, or any part thereof, or any matter, thing or practice, to be dangerous or defective, and also in writing give

explicit directions as to the measures to be adopted and carried out to remedy the evil or defect and require the same to be remedied in a reasonable time, considering the definition above given as to what would constitute reasonable time.

In cases about which there is no controversy between the Inspectors, owners, agent, or general managers of any mine, as to the decision of the Inspector under the second head, or division, as hereinbefore classified, or, as to the directions given by the Mine Inspector; and the owner, agent, operator, or general manager fails or refuses to comply with any order or direction of the Chief Mine Inspector; and in cases where there is such a controversy and said parties refuse or fail to comply with any such order or direction of the Chief Mine Inspector it is his duty to refer the matter to the judge of probate and on such reference the procedure provided in section 2935 of the Code of 1896 should be strictly followed. If no appeal is taken within the time limited from the decision in favor of the Inspector by the judge of probate, or if his decision is affirmed by the appellate court, or if the appellate court reverses a decision against the Chief Mine Inspector and renders one in his favor,—the decision shall be final and operative on said owner, agent, operator or general manager and a refusal to carry out the final order or determination of the case, after the expiration of a reasonable time, will constitute a misdemeanor, and the Chief Mine Inspector should institute criminal proceedings against the offender and it would be the duty of the solicitor to prosecute the case.

SUMMARY.

FIRST.

For violations of the expressed mandatory provisions of the statute, the Chief Mine Inspector should immediately give notice of same and after the expiration of a reasonable time should institute criminal prosecution against the offender.

SECOND.

For violations of the orders and directions of the Chief Mine Inspector under the second head, or division, the procedure laid down in sections 2934 and 2935 should be strictly followed; and after final determination of the case in favor of the Chief Mine Inspector he should, after the expiration of a reasonable time, institute criminal prosecution against the offender.

There may be a case of such imminent peril to life that the mines should not be worked, and the operators still persisted in working them against the commands and protests of the Inspectors, where the Inspector might be forced to apply to the courts for extraordinary remedies; but such a contingency is hardly within the bounds of possibility.

All of which is respectfully submitted.

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Oct. 14, 1899.

HON. WALTER S. WHITE,

State Auditor,

MY DEAR SIR:

The removal fees are not on the same footing as fees for feeding prisoners.

The statute plainly states that prisoners cannot be sentenced to hard labor for sheriff's fee for feeding him while in jail before conviction. The decision of the Supreme Court in *Ex parte State*, 25 So. Rep., p. 563, is placed solely on the express provision of the statute forbidding a sentence to hard labor for fees of sheriff

for feeding defendant while in jail. There is no such prohibition as to removal fees.

Respectfully yours,
 CHARLES G. BROWN,
Attorney General.

In matter of letter of Charlie Cox,
 Clerk of Circuit and Criminal Court
 of Pike Co., Ala., to Hon. Walter S.
 White, Auditor.

MONTGOMERY, ALA., Nov. 7th, 1899.

HON. JOS. F. JOHNSTON,
Governor,
 At Office.

DEAR SIR:

You have referred for my consideration and opinion the letter of Hon. Ed. Roach, Judge of Probate of Geneva county.

The matter propounded by Judge Roach presents for decision the question whether "An Act (commonly called the Dispensary Law) To authorize municipal and other sub-divisions of the State to buy and sell spirituous, vinous and malt liquors and to further regulate the sale of such liquors." General Acts of 1898-99, p. 108, or, "An Act to prohibit the sale of alcoholic, vinous or malt liquors in the county of Geneva, except in incorporated towns." Local Acts, 1898-99, p. 1113, is the law in said county governing the sale of liquors. It will be conceded that the first act is a general law, and the second a local, or special, law.

It is nearly the universal rule that a general statute, even when passed and approved later, is to be construed as not repealing a special, or local, law. *Generalia specialibus non derogant.* A general later affirmative law does not abrogate an earlier special law. The general statute is read as silently excluding from its operation the cases which have been provided for by the special, or

local law; for as was said of the relation of a general act to a local one applying to a single county: "It is against reason to suppose that the Legislature in framing a general system for the State intended to repeal a special act which the local circumstance of one county had made necessary." The fact that the general act contains a clause repealing acts inconsistent with it does not diminish the force of this rule of construction. And this is held to be especially the true rule of construction where the two acts were passed at the same session, and much more strongly should it be held to be so when the two acts were passed by the General Assembly on the same day and approved by the Governor on the same day. See Endlich on the Interpretation of Statutes, sections 223 and 224, pp. 298-99 and authorities cited in notes to these sections.

I have been delayed in the investigation of this question by the fact that I was unable to obtain a copy of the House journal until within the past few days, and have not as yet been able to see and examine the Senate Journal as it has not been received from the publisher by the Secretary of State. With the assistance of this officer and his efficient clerk I have examined, as far as possible, the file in his office pertaining to these acts. From this examination I ascertain that both bills originated in the Senate and were passed in the House on the same day, or rather the Senate concurred in the House amendments to the Dispensary Law on the same day that the House passed the local law for Geneva county, and that the Dispensary Act was signed by the Speaker of the House before the said local act was signed by the Speaker,—both bills having been before signed by the President of the Senate. I have also examined the record book in the office of the Governor of his appropal of bills and find that his approval of the Dispensary Law preceded his approval of the local law.

It is laid down that two inconsistent acts passed or approved at *precisely the same time* must necessarily nullify each other, and although the general rule is as to the enactment of statutes that the law will take

no notice of fractions of a day, yet, to escape this result as to statutes passed, or approved, on the same day, and to avoid inconsistency and incongruity of legislation it is the rule that the one later passed and approved may repeal the earlier to the extent of any repugnancy between them, and especially is such the effect of an act passed the same day, with an inconsistent one, *but later*, and being *local* or *particular* in its *application* and intended to take effect at a *later date* than the previous more general one.

Endlich on Interpretation of Statutes, section 189;

State vs. Hudson, 74 Mo., p. 410;

Strauss vs. Heiss, 48 Md., p. 292;

Hampton vs. Evenzeiler, 2 Browne (Penn.), p. 19;

Mead vs. Bagnall, 15 Wis., p. 156;

Metropolitan Board of Health, 3 Daly N. Y., p. 282.

Again the said local law repeals all laws and parts of laws in conflict with the act, and the only repealing clause of the Dispensary Act is found in section 13 as follows: "This act shall not be construed to repeal any law, local, or general, that tends to *prohibit, retard, restrict, or restrain*, the traffic in spirituous, vinous or malt liquors." Under the law theretofore in force such liquors could be sold anywhere in said county, inside, or outside, of incorporated towns; and under the provisions of the Dispensary Law such liquors could be sold by the dispensers outside of incorporated towns or cities in said county, or, as expressed in said act, in the "rural districts" of said county. But the local law absolutely prohibits the sale of such liquors outside of such towns in such rural districts, and in incorporated towns puts stringent restrictions on such sale,—there must be an application made by the person desiring to engage in this traffic, naming the town and requesting an election to be ordered to determine whether a license shall be issued for such sale, and this applicant must file with the

judge of probate a statement signed by ten reputable citizens of such town, that he, the applicant, is of good moral character and is a fit person to engage in this traffic, and before such license for such sale can be issued there must be a majority of votes cast for this license. Most assuredly this local law *tends to prohibit, retard, restrain, or restrict* this traffic.

I am, therefore, constrained to hold that said local law is the law in force and must govern the sale of said liquors in Geneva county. Permit me to add that in my judgment this is not a question for the official opinion of the Attorney General. It is a local matter which the heads of department of the State Government have nought to do with. The Attorney General should not be allowed to trench upon the province of the courts, or project his opinion upon the judgment of those officers to whom the decision of such questions is specially confided. But out of regard for the great anxiety and most commendable desire of Judge Roach to receive aid in the discharge of his duty and out of respect for your request in referring the letter of Judge Roach to me, and with the hope that the expression of my opinion may be of some little assistance to Judge Roach and to prevent long, bitter and expensive litigation, I have deferred to both of your wishes and submit for your consideration the above opinion.

In a letter to me Judge Roach asked my construction of the law as to who are the qualified voters at the election to be held on the first Saturday in January. It will be observed that the election is held for the sole purpose of determining whether or not a license shall be issued to sell liquor in the towns now incorporated, or hereafter incorporated. It should be first determined in what beats, or precincts, as they stood before the change referred to in section 6 of said act was made, said town is now situated and the voters of such beat, or precinct, in which the town was then situated are the qualified electors.

Most respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Oct. 1st, 1900.

HON. WALTER S. WHITE,
At Office.

DEAR SIR:

Replying to your questions as to whether, or no, you should under Par. 34 of section 1 and section 2 of an Act "To make appropriation for the ordinary expenses of the executive, legislative and judicial departments of the State, etc.," Acts of 1898-99, pp. 69-70, place to the credit of the educational fund the sum of four hundred and fifty thousand dollars and certify the same to the Superintendent of Education; and, if not, what amount you can safely thus place to the credit of said fund and certify to said official,—I beg leave to say:

1st. That in my opinion you should not place to credit of said fund, nor certify to said official, the sum of four hundred and fifty thousand dollars.

2nd. The highest possible amount you can properly and safely place to credit of said fund and certify to said official is *one-fourth* of four hundred and fifty thousand dollars; and *one-half* of the sum appropriated for the year ending September 30th, 1900, "for interest on 16th section land," etc., as provided in Par. 37 of said section 1 of said Act of 1898-99, p. 69.

Most respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Oct. 13th, 1900.

Gov. JOS. F. JOHNSTON,
Governor of Alabama.

DEAR SIR:

Complying with your request for my official opinion "as to the power of the Governor of the State to ap-

point and employ an agent for the Swamp and Overflowed Lands granted to this State by the Federal Government under the Act of Congress of September 8th, 1850," I have the honor to say that it became necessary for me to examine the legislation of Congress and all the acts of the General Assembly of Alabama bearing on the subject, from the date of the passage of the said act of Congress to and including the last session of the General Assembly, as the laws relating to the same have not been codified and as all the Codes of this State, since that of 1852, have expressly, or conclusively, declared, "that all laws relating to the Swamp and Overflowed Lands are not repealed by the Code, but continue in force." Section 2 of the Act to adopt the Code of 1886, approved the 28th of February, 1887, provided that "no act passed at the present session of the General Assembly shall be repealed or affected in any manner by the adoption of the Code;" and section 10 of said Code of 1886 contains the following provision: "All laws relating to the Swamp and Overflowed Lands are not repealed by this Code;" and the act adopting the Code of 1896 and section 10 of said Code contains similar provisions expressed in nearly identical language, a careful and, I believe, a thorough and accurate examination of the legislation of our State bearing on the question for decision, I am of the opinion that "An Act to further regulate the securing, preservation and sales of the Swamp and Overflowed Lands of the State," approved February 12th, 1879, Acts of 1878-79, page 198, has not been repealed, but is now in full force and effect; and by the said express provisions of the said Act adopting the Code of 1886 and 1896 and of said section of said Codes, said act stands unrepealed and continues in full force and effect. This act in section 1 expressly empowers "the Governor of the State, at his discretion, to employ such agent, or agents, as he may deem necessary under the present, or any future act, or acts, of Congress, to select and locate any Swamp or Overflowed Lands heretofore granted to the State by the Congress of the United States,—such agents to be paid only out of the proceeds of the sales of such

lands;" and section 2 further empowers the Governor of the State "to cause such suits to be brought at law, or in chancery, as he may deem necessary to protect the title, or interest of the State in or to any of the State's Swamp or Overflowed Land, or to recover any amount belonging to the said land and to use the name of the State as plaintiff for such purpose:" I am also of the opinion that an Act "to authorize the Governor to prosecute and secure to the State the benefits resulting from all claims of the State of Alabama against the United States for, or on account of, Swamp and Overflowed Lands, and other public lands in Alabama sold or otherwise disposed of, by the Federal Government," etc. Approved February 28th, 1887,—Acts of Alabama, 1886-87, pp. 73-4,—see also page 162 as to sale by Governor and also act as to sale by judge of probate, Acts of 1892-93, p. 580, remains unrepealed and continues in full force and effect. Among other things, section 1 of said act provides that the "Governor be, and he is hereby authorized to take all necessary steps to secure to the State from the United States all Swamp and Overflowed Lands donated by the Act of September 28th, 1850, or other acts; the proceeds of all Swamp and Overflowed Lands which had been sold by the United States since the grant thereof to this State, or which may hereafter may be sold; indemnity lands, or script therefor in lieu of Swamp and Overflowed Lands which had been, or may hereafter be, disposed of by the location of Military Land Warrants;" and section 2 of said act provides that the "Governor may under written contract revocable at his pleasure employ an agent, or agents, to act for the State,—such agents to be compensated in a measure to be stipulated in said contract out of the proceeds of any claim prosecuted by them in lands, land script, money or other things in kind, or in money received from sale of land, land script or other things recovered. I am, therefore, of the opinion that the Governor of the State has plenary authority to employ such agent, or agents, with all the powers conferred on them in and by said acts.

Permit me most respectfully to suggest and state

that there is now an urgent necessity for, and the interests of the State demand, the prompt and speedy employment of such competent agent, or agents,—especially as the several agents heretofore appointed under said acts have long since died, or resigned, and as the records in the office of the Secretary of State relating to these lands and the disposition of same are grossly incomplete and imperfect.

I am, very respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Jan. 8th, 1901.

HON. WM. J. SAMFORD,
Governor of Alabama,
Montgomery, Ala.

MY DEAR SIR:

On yesterday you made a verbal request for my opinion on the following proposition: "What public notice should be given and by whom of the election to be had under 'An Act to provide for holding a convention to revise, etc., the Constitution of this State,—approved December 11th, 1900, so as to submit to all the electors of the State the question of Convention or no Convention, and the selection of delegates to such convention, if approved by a majority of those voting at said election.'" In reply I beg leave to state that Sec. 13 of said Act and Sec. 1590 of Civil Code, 1896, of Alabama taken together clearly make it the duty of the sheriffs of their respective counties to give notice of such election at least thirty days before the 23rd day of April, 1901, the day fixed in said act for such election, in the manner prescribed by said section of the Code.

There is nought "otherwise provided" by said act in any way changing the general election law on this point. It is too plain for argument that the law in the Code

providing for and regulating special elections, Article VI, p. 517, of Code (1896) of Alabama, has no application to the question presented.

Most respectfully, your obedient servant,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., March 18th, 1901.

HON. JOHN T. GORMAN,
Examiner of Public Accounts,
At Office.

DEAR SIR:

Your favor dated Opelika, Ala., March 11th, 1901, asking my construction of section 3945 of the Code of 1896, received this morning.

If the tax assessor has complied with the requirements of the law as to the assessment of taxes, and the tax payer still fails to assess his property after demand required by section 3935 of the Code, it is mandatory on the tax assessor to add the five per centum of the assessed cash value of the property as a penalty on the tax payer for non-assessment of his property. If the assessor fails to discharge his duty in this regard, unless the penalty has been remitted for the causes specified in said section, he and the sureties on his official bond are liable to the State and county for this as for any other breach of the condition of his official bond.

Very respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 10th, 1901.

HON. WM. J. SAMFORD,
Governor of Alabama,
At Executive Office.

MY DEAR SIR:

In reply to your request for my opinion as to your power and authority to approve an appropriation for the purpose of an "illustrative exposition" of the mines, minerals, soils, et cetera, of Alabama, as provided in subdivision 13 of section 376 of Civil Code (1896) of Alabama, at the "Pan-American Exposition," to be held in the city of Buffalo, State of New York, I beg leave to suggest that the Commissioner of Agriculture make in writing the proper application for such appropriation addressed to you as Governor, and that you can endorse thereon your approval, if it meets your approbation, for such an amount as you deem proper; when this is done the Auditor may draw his warrant on the treasury of the State for the amount approved, if the Auditor and Treasurer have concluded under section 3 of an Act "To prevent a deficit in the State treasury," etc., approved March 5th, 1901, that the income of the State is sufficient to pay such appropriations, and if they have concluded that it is not sufficient and have so reported to the Governor, they should fix the pro rata of said amount and pay the same as prescribed in said section 3. It might be advisable to make the amount payable in different sums and at different times as the money is required. This could be done after consultation with the Commissioner of Agriculture.

Most respectfully, your obedient servant,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 10th, 1901.

HON. ROBERT P. McDAVID,
Secretary of State,
City.

DEAR SIR:

In reply to question of within letter, submitted to me for an official opinion, I beg leave to say that the statute provides no way, after declaration filed and commission issued by Secretary of State to open books of subscription to capital stock as fixed in the declaration, to increase said capital stock before completion of the organization of said corporation and issuance of the certificate of incorporation by your office. See *Grangers Life and Health Company vs. Kamper*, 73 Ala., p. 340. After this organization and issuance of this certificate of incorporation the capital stock can be increased by complying with the provisions of section 1174 of Civil Code (1896) of Alabama.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 15th, 1901.

HON. T. L. SOWELL,
State Auditor,
At Office.

MY DEAR SIR:

The letter to you from Hon. E. F. Crook, judge of probate of Calhoun county, with request therein for my official opinion on the statements therein, received this morning.

The amount of certain licenses, or occupation tax,

is graded according to the population of cities, towns, and villages. The population of the city of Anniston, according to the United States census of 1900, is less than ten thousand inhabitants. By act of the last General Assembly of Alabama the territory of the town, or city, of Oxanna was annexed to and incorporated into the city of Anniston. The census returns give to the city of Anniston a population of nine thousand six hundred and ninety-five (9,695) inhabitants and to the town of Oxanna eleven hundred and eighty-four (1,184) inhabitants. The act annexing Oxanna to Anniston was approved February 28th, 1901. The revenue law, or rather the act amending certain sections of the revenue law, was approved March 5th, 1901. It will be seen that, at the time the act amending certain sections of the revenue law became the law, Oxanna had been annexed to and formed a part of the city of Anniston, and adding to the population of Anniston (9,695), as shown by the census report, the population of Oxanna (1,184) as shown by the census report, would make the population of Anniston at this time more than ten thousand, to-wit, ten thousand eight hundred and seventy-nine (10,879). The act of March 5, 1901, contains the following provision bearing on the question, that "In all cases in this section where population controls the price of licenses, the last census report of the Federal Government shall control." The census report clearly shows that after the annexation of Oxanna to Anniston and at the time this act became the law and went into effect the city of Anniston contained a population of more than ten thousand and less than twenty thousand inhabitants. The act under consideration further provided that whenever any one has paid more license for the current year than is required under this act they shall be entitled to receive from the treasury of the State and county the excess of license so paid; and whenever licenses for the current year have been paid and the license provided by this act does not exceed the amount paid, *no new* license shall be taken out; and that whenever a license for the current year has been paid and the license required by this act exceeds the amount

paid, the amount then paid shall be allowed as a credit on the new license for the current year. There is an express repeal of all laws in conflict with the section as amended. It is, therefore, clear that this act so far as licenses are concerned has a retrospective effect—that this act from the time of its approval solely governed the amount of licenses prescribed in this act. It is fully settled upon the authorities that licenses cannot be considered a contract between the State and the individuals, and any laws enacted by the law making power modifying the terms or imposing additional burdens, or restrictions, are not open to the constitutional objections of impairing the obligations of a contract. See *Powell vs. State*, 69 Ala., p. 10; and note 60 to page 127 of *Black on Intoxicating Liquors*.

I am, therefore, of the opinion that in cases where population controls the price of the license, that the population of Anniston, after the annexation of Oxanna as shown by the census returns of the population of both cities, and which is a matter of simple addition, should govern the action of the probate judge as to amount of license to be paid.

Most respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., April 17th, 1901.

HON. J. M. CARMICHAEL,

Pres. Board of Ins. of Convicts,

At Office.

MY DEAR SIR:

I have just received your communication of this date in which you request my official opinion on the following question: "If the statute and contract (a blank form of which contract you enclose) confer upon the Governor of the State the right to terminate such contracts (of hire) without assigning a reason therefor."

Section 4509 of Criminal Code of 1896 expressly provides in clear and unmistakable language that "contracts for hire of convicts may be terminated *for cause* by the *President of the Board* with the approval of the Governor, or may be terminated *at any time by the Governor* without assigning *any reason therefor*." This statute forms a part of every contract made by your board with the approval of the Governor for the hire of convicts, and is binding upon the person, firm or corporation with whom any such contract is made. If the President of the Board takes the initiative in terminating such contract it must be for cause, and this cause can be assigned by him and if the Governor give his approval to his action the contract is then and thereby terminated; but in case the Governor decides to take the initiative and terminate the contract, it is lodged by the statute and the contract in his judgment, discretion and conscience, and he need not assign any reason therefor, and there is no power to review or control his action in the matter.

Permit me to suggest that it is better to follow the exact language of the statute in clause 7 of the blank form of contract submitted with your letter, namely: use the word "terminated" instead of "revoked" in first line of said clause, and insert after the word "terminated" the words "for cause," and strike out after the words "at any time," in second line, the clause "when in his judgment it is right to do so." This is made as a suggestion and must not be considered as intimating that the language of the contract as framed would affect its validity; on the contrary, it is my opinion that it would not. It is always the safest rule to follow the exact language of the statute in drawing any contract or instrument based on the statute. This opinion is respectfully submitted for the consideration and action of yourself and other members of the Board.

Most respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., May 7th, 1901...

HON. HARVEY E. JONES,
State Tax Commissioner,
At Office.

DEAR SIR:

You wish my opinion as to whether the State Tax Commissioner or his deputy, is entitled to retain a commission under Sub-division 58 of section 4122 of article 15 of "An Act to further amend the revenue laws of the State of Alabama," approved March 5th, 1901. I find on investigation that the act fixing your salary was approved March 3rd., 1901, two days previous to the approval of the said first mentioned act. If you, or your deputy, collected one-half of one per centum of the gross sales of the agency, firm or corporation, selling illuminating, or lubricating, oil under first clause of said sub-division, you would be right in retaining the commission; but if you agreed upon a gross sum in lieu of the license tax proper, you would not be entitled to so retain the commission. In the first instance the Board of Compromise has naught to do with the matter and no report to, or approval by it, is necessary.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., June 6th, 1901.

HON. T. L. SOWELL,
State Auditor,
At Office.

DEAR SIR:

In reply to your request for my official opinion whether the members of the Constitutional Convention

shall be paid their "per diem compensation for fifty continuous and consecutive days counting from the day the convention convened or for fifty working days," beg leave to say that in accordance with the construction heretofore made of analagous provisions as to pay of members of the General Assembly, it is my opinion that the members are entitled to such compensation for fifty working days.

In reply to your question as to the stenographic report contracted for by the Convention I respectfully state that a resolution or ordinance has been adopted by the Convention which is a lawful warrant and authority for payment for this work. After the expiration of these fifty working days the Convention if in session should pass an ordinance or resolution providing for further payment or compensation to members, officers, etc., of the Convention and make appropriation therefor.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., June 29th, 1901.

HON. JAS. H. WEBB,
Solicitor, etc.,
Mobile, Ala.

MY DEAR SIR:

At the Governor's request I went to Birmingham Thursday last and did not return until last night, therefore did not see your favor of 24th, inst. until this morning.

It is my opinion that Judge Semmes did not decide the act unconstitutional; but held that it did not apply to corporation employed by the United States Government to dredge Mobile Bay. Such a construction should be given an act as to uphold its constitutionality. A State law should be so construed in its application as not to

fall within the domain of Federal jurisdiction and powers. In other words that in the interpretation of such a statute it should be, if possible, limited to intra-State matters and not extended to the domain of Federal jurisdiction and power, when such an extension would have the effect of making the whole act unconstitutional. See as to this point *Maine vs. Grand Railroad Co.*, 142 U. S. p. 217; *Philadelphia Mail Steamship Co. vs. Bom.* 104 Penn. St., p. 109; *Home Ins. Co. vs. New York*, 134 U. S. p. 594; *Horn vs. Silver Mining Co.*, 143 U. S., p. 305; *Ratterman vs. Western Union Tel. Co.* 127 U. S. p. 411; *Western Union Tel. Co. vs. Pennsylvania* 128 U. S. p. 39; *Central Union Tel. Co. vs. State*, 108 Ind., p. 194; *W. U. T. Co. vs. Milton*, 100 Tenn., p. 429; 94 Va. p. 268; *Northern Pac. R. R. Co. vs. Barnes*, 53 Am. & Eng. R. R. cases, p. 643. I take it, therefore, that the law was not declared unconstitutional by Judge Semmes, but that he held that it did not apply to the company employed by the United States in a business exclusively within the control and jurisdiction of the National Government. I, therefore, am inclined to the opinion that an appeal by the State will not lie. I agree with the conclusion of Judge Semmes tho' not fully convinced as to the correctness of some of his postulates. I would not advise an appeal in this case. I enclose opinion as requested in Fuller cases. I think it bears very closely upon your case.

The contracts with the City of Mobile and the Southern R. R. Co., in my judgment would not render the defendant liable. I write in great haste and have not time to verify the correctness of citations.

Yours most respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., July 18th, 1901.

HON. T. L. SOWELL,
State Auditor,
At Office.

MY DEAR SIR:

I have considered the questions propounded by you for my official opinion in the following communication:

HON. CHARLES G. BROWN,
Attorney General, etc.,
Montgomery, Ala.

DEAR SIR:

It is apparent that the Constitutional Convention, now in session, will not be able to complete its labors within fifty days. Section 9 of an act entitled "An Act to provide for holding a Convention to revise and amend the Constitution of this State, approved December 11th, 1900, provides that per diem compensation shall not be allowed or paid to any member of the convention for a longer time than fifty days." In case the Convention does hold on in session for a longer time than fifty days, shall I be governor by the mandate of said act? Or in case the Convention should adopt an ordinance or pass a resolution appropriating money out of the treasury to cover the extended time, or should order warrants to be drawn to cover the per diem for this extended time, what will be the duty of the Auditor? In your opinion, has the Convention the power to appropriate money out of the treasury to pay themselves for per diem beyond the limits prescribed in the above mentioned act?

Very respectfully,

T. L. SOWELL,

Auditor.

A categorical reply by simple yea, or nay, answers to the several questions in the order propounded, would

not be proper under the circumstances, as the importance of the inquiry presented and the fact that an official opinion from this office is for your guidance only, which if followed, would protect you in your official action thereon; yet if it does not meet with your approval you can, and should, disregard the opinion of the Attorney-General—renders it highly proper that I should state the reasons for the opinion submitted for your consideration. A correct solution of this, to me, intricate problem demands a consideration of the true legal and political concept of a Constitutional Convention, its office and powers, its relation to the whole people of the State, and the proper boundaries between the office and powers of the Convention and those of the General Assembly of the State as the depository of the legislative powers of the State government on matters, or subjects, of general and ordinary legislation, except as limited by provisions of the fundamental law of the State.

I do not deem it necessary to even epitomize the history and development of the law of Constitutional Conventions, or to note the distinction between what are termed, by Mr. Jameson, Revolutionary Conventions and Constitutional Conventions, and shall content myself with only saying that I cannot concur with this learned, but partisan, writer in many of his definitions and conclusions on this subject. At the very threshold of this investigation—we are confronted with the consideration of the question as to the legitimate office and relation of the General Assembly of Alabama towards a Constitutional Convention, and whether, or no, it can lawfully define and limit the powers of a Constitutional Convention and restrict their exercise as to time, mode and method. It is contended by Mr. Jameson in his work on Constitutional Conventions that the legislative department of a State can thus define and limit the powers of a Constitutional Convention. I shall endeavor to show that many of his postulates are incorrect and the authorities relied upon by him are not applicable to the Constitution and form of government of the State of Alabama. In its last analysis, he holds

that the authority and commission of the delegates of a Constitutional Convention, and the powers of a Convention, are derived from the act of the Legislature in what is commonly termed (but improperly so, as applied to the Constitution of this State), the "Enabling Act" to provide for the holding of a Constitutional Convention. The decisions relied upon by this author and Mr. Ordronaux were rendered upon Constitutions different from our Constitution on the matter of the revision and alteration and amendment of the Constitutions; in some of which there were no provisions as to such revision, alteration and amendment, either by the proposal of amendments by the Legislature, or providing for a call of a Convention, and others contained simply provisions for amendments by proposals originating in the Legislature and still others with provisions for proposals of amendments, and with a provision empowering the Legislature to submit to the people the question of the expediency of holding a Convention and then empowering the Legislature, if a majority of the qualified electors voted in the affirmative, to call a Convention and for such purposes and in such manner and under such regulations as deemed best and expedient. In these States, except the State of Rhode Island, the power to call a Convention was referred to the general legislative powers of the Legislative Department of the State and a submission of the question of the expediency of a Convention was left to the discretion and will of the same department, and the vote of the people was considered as advisory merely—simply addressing itself as a moral or political inducement for the Legislature to grant the expressed desire of the people. In Rhode Island it was held by the court of last resort that as the Constitution specifically provided that amendments should be made by proposals originating in the Legislature, a Convention could not be held to form a new Constitution, or revise, amend, or alter the existing Constitution. In Massachusetts it was doubted under the Constitution of 1820, which provided only for proposals of specific amendments by the Legislature, whether the Legisla-

ture could take any steps towards submitting to the people the expediency of holding a Convention for the adoption of specific amendments.

It is necessary to call attention to the provisions of the present Constitution of Alabama on this subject, contained in Article XVII.

MODE OF AMENDING THE CONSTITUTION.

"Section 1. The General Assembly may whenever two-thirds of each House shall deem it necessary, propose amendments to this Constitution for the consideration of the people; and it shall be the duty of the several returning officers at the next general election, which shall be held for representatives, to open a poll for the vote of the qualified electors of the State on the proposed amendments; and if it shall thereupon appear that a majority of all the qualified electors of the State, who voted at said election, voted in favor of the proposed amendments, said amendments shall be valid to all intents and purposes as parts of this Constitution."

"Section 2. No convention shall hereafter be held for the purpose of altering or amending the Constitution of this State, unless the question of Convention or no Convention shall be first submitted to a vote of all the electors of the State, and approved by a majority of those voting at said election."

There was a provision substantially as Section 1 in the several preceding Constitutions of the State; but in the Constitution of 1819 there was no provision for a call of a Convention. The Constitutions of 1865 and 1868 contained a provision differing slightly in immaterial particulars, substantially similar to Section 2 of the present Constitution of 1875; but the Constitution of 1861, adopted at what is commonly known as the Secession Convention, was totally dissimilar and antagonistic in its provisions defining the office and authority of the General Assembly with respect to a Convention, to those of the Constitutions of 1865, 1868 and 1875. The provision in the Constitution of 1861 is as

follows: "Provided further, that a Convention of the people of the State may be called by a vote of two-thirds of each branch of the General Assembly under such rules and regulations as the Legislature may prescribe to amend the Constitution, or for any other purpose." Who can doubt in the light of History that the powers of the Legislature under the Constitution of 1861 were most materially restricted and limited and even prohibited by the Constitutions of 1865, 1868 and 1875 formed after the close of the "war between the States." Who can question the doctrine under the Constitutions of 1865, 1868 and 1875, that the delegates to a Constitutional Convention derive their authority and commission and powers from the sovereign people of the State, and not from the Legislature, or from any improperly so-called "Enabling Act" of the Legislature? Can a department of the State Government not vested with the authority to confer a power, but positively prohibited from exercising such power, and which authority is expressly and solely vested in the people, limit the powers of the "highest legislative assembly recognized by law," in a "representative Democratic form" of government directly called into existence by that body in whom the ultimate sovereignty resides? *Goodrich vs. Moore*, 2 Minnesota, p. 61.

It would be an unnecessary consumption of time to comment on and critically examine the several decisions of the courts relied upon to sustain the contrary contention of Mr. Jameson and other like new "doctrinaires," as a consideration of most of them will demonstrate that the question involved was not presented; or decided, and that no legitimate conclusion can be drawn therefrom antagonistic to the doctrine contended for in this opinion. The opinion delivered by Chief Justice Agnew in the case of *Wells vs. Baine*, 75 Penn., pp. 39-58, is the leading and strongest presentation of this doctrine of legislative power, and upon which the greatest stress is laid by the advocates for this power of the Legislature. The facts of that case essential to the comprehension of the question before the court were that the Legislature of Pennsylvania on June 2nd, 1871, passed

an act to submit to a popular vote the question of calling a Convention by the Legislature to amend the Constitution without any special warrant in the existing Constitution of that State, and which contained no provision for amending the Constitution, save by the action of the Legislature followed by a ratification of the people, and this action of the Legislature in submitting the question of the calling of a convention was referred to and based upon its general legislative powers; so that the question as stated in the opinion of the Court on page 30, passed upon by the vote of the people, was only that of the expediency of a call to be subsequently made by the Legislature; and if the question was answered in the affirmative, in the language of the Court, the people simply replied "You (the Legislature) may call a Convention. This was all the vote expressed." In April, 1872, the Legislature passed an act to provide for the calling of a Convention and among other things provided that the Convention submit the amendments agreed to by it to the qualified voters of the State for their adoption or rejection; and further enacted that such election should be conducted by the officers and in the manner general elections are held in the Commonwealth. The Convention passed an ordinance that the election should be held in the city of Philadelphia by certain persons therein called commissioners, other than those required by law to hold general elections, averring the invalidity of the ordinance and praying an injunction against the commissioners restraining them from holding said election. The Chief Justice in his opinion construing the purpose of the act of the Legislature in submitting the question of calling a Convention to a vote of the people on pages 50 and 51 uses the following language: "The present inquiry is not how much power may be conferred by law, but what power was conferred on this Convention. A law must be passed according to the forms of the Constitution. One of these is that no bill shall contain but one subject, which shall be clearly expressed in its title. The title of the Act of June 2nd., 1871, is 'An Act, to authorize a popular vote upon the question of calling a Convention to amend the Constitution of the Commonwealth be submitted to a vote of the people at the general election to be held,

etc. The one subject of both title and text is the question of calling a Convention. That question was authorized to be submitted to a popular vote. In that election each elector expressed his individual opinion on that question and that alone by voting 'for a Convention' or 'against a Convention.' This question was answered in the affirmative by a majority of votes, and the people answering the Legislature, said: 'You may call a Convention.' This was all the vote expressed. Each vote expressing the opinion of the elector on that question, the majority expressed no more. Thus an analysis of the act, both in title and in text, demonstrates that the vote was not a delegation of power except to the Legislature. The result of that vote was the Legislature might call a Convention. It was not in itself a call, nor did it declare when and how or on what terms the call should be made. That, the very answer to the question necessarily left to the Legislature which asked their judgment on the propriety of the call. It was not even a mandate, further than the moral force contained in an expressed desire of the people. It is very evident had the matter dropped there and the Legislature had made no call, no Convention and no terms would ever have existed."

"The italics are those shown in the published opinion of the court. Right here it is proper to be observed that a submission by the Legislature of a call for a Convention, or the proposal of specific amendments by the Legislature, to a vote of the people is not an act of general, or ordinary legislation, and the forms prescribed in the Constitution for the enactment of a statute by the Legislature need not be complied with, and the contrary doctrine has been nearly universally repudiated by the courts of highest repute, including that of the Supreme Court of Pennsylvania.

6 Am. & Eng. Eucy. Law, p. 906, and notes.

Commonwealth ex rel Elkin vs. Griest (Penn.)

50 L. R. A. p. 574, and authorities therein cited.

State ex rel Morris vs. Mason (La.) 9 So. Rep. p. 776.

It is therefore manifest that this construction of the Pennsylvania Act of 1871 by the court was the major and minor premises—the foundation stones on which rested the reasoning, conclusion and decision of the court that the Legislature, and not the people, was the source of the authority and commission of the Convention and that the definition, extent and limit and scope of its powers and the manner, method and regulation of their exercise must be found alone in the subsequent act calling the Convention. This is further shown by similar expressions used by the same Chief Justice in the analogous case of Wood's appeal in same volume of Pennsylvania Reports, page 71. This is also clearly demonstrated by Mr. Jameson in approving the construction and reaching the conclusion expressed by him in the following quotation from his work: "that in all cases when a Convention act is submitted to the people it is the mere question of expediency that is passed on by the people. An affirmative vote declares it to be expedient and a negative vote declares it to be inexpedient for the Legislature to call such Convention; a declaration which has neither the effect or form of law. The language of law is "flat," be it done, that such a vote of the people is "videtur," it seems good,— "desideradum est," it is to be desired—a mere expression of a wish not the uttering of a command." And in a subsequent section he emphasizes the view and follows the language quoted from Wells vs. Baine supra to the effect that such a vote of the people has no binding force on the Legislature and that body has still the power and authority at its will and pleasure to call, or not to call a Convention, and if called, the Legislature has the sole sovereign power in the act calling the Convention, or in a subsequent act passed before the assembling of the Convention, to define, fix and regulate the powers and purposes of the Convention, and the mode, method and time of their exercise by the Convention. It therefore appears to me that it would be the height of illogical juristic reasoning to assert that such a construction could possibly be placed on the provision of our Constitution expressly prohibiting the

General Assembly from calling a Convention and directly conferring on the people alone the authority to declare peremptorily by a majority vote that the "Convention shall be held." That such a construction cannot be given to the provision of the Constitution of the State of Alabama is the keystone of the arch of this argument mainly supporting the correctness of this opinion and must be my excuse for invoking its further consideration by you. The power to propose amendments by the Legislature as prescribed by the Constitution, or the power to submit to the vote of the people for their sole and sovereign determination that a Convention shall be held, does not confer the power to either break it in the act proposing the amendment or in the act submitting the question of Convention to the people any more than to legislate on any subject contrary to its provisions.

State vs. Swift, 69 Ind. pp. 518-19.

Now let us consider the part which under our present Constitution the General Assembly may act in amending the Constitution. It is evident that its part is restricted to the proposal of amendments in the form and manner prescribed by Section 1 of the Constitution. This provision must be strictly construed, and if the form and order in which the proposal of amendments is disregarded by the Legislature it is approved doctrine that the proposed amendment will be invalid, null and void. A strict observance of every substantial requirement in this special grant by the Constitution is enjoined.

Collier vs. Frierson, 24 Ala. p. 100.

Koehler vs. Hill, 60 Iowa p. 543.

Oakland Paving Co. vs. Hilton, 69 Cal. p. 479.

It is useless to multiply citations to this effect as this is the accepted doctrine. Now if the General Assembly is restricted by this special grant of power to the specific mode, form and manner of proposing amendments, it necessarily follows that all other methods, form and manner, either directly or indirectly, are prohibited to the General Assembly as a matter of right and power in

such body. In other words the power and authority to propose specific amendments, being restricted and limited in the special grant to the specified way, the General Assembly cannot directly or indirectly say, as a matter of power and authority, what a Constitutional Convention, receiving its commission and authority and power from the vote of a majority of the sovereign people, shall or shall not place into the fundamental law of the State. The Constitution thus expressly prohibits the exercise of any such power and authority by the General Assembly. Its only function as to amendments, or revision, of the Constitution is limited to the initiative of proposals of specific amendments as prescribed in the Constitution, and the initiative of a proposal to be submitted to the people for a convention to be held—not to be called by the General Assembly—to revise and amend, or alter, the whole Constitution. Therefore, every other function is expressly, or impliedly, prohibited by the Constitution. An implied prohibition is as effectual as an express one.

14 R. I. p. 654.

Taylor vs. Place, 4 R. I. p. 324.

The Constitution thus limiting the power of the General Assembly to the proposal of specific amendments and which amendments must be passed in a particular way before submission to the people, if the General Assembly could dictate to the Constitutional Convention what amendments shall or shall not be made, then it follows that the General Assembly would indirectly be clothed with the power to enact amendments, such a construction in its last analysis would empower the Legislature to do that which the Constitution by the limitation on its power forbids it to do. It is a question of power and authority solely where it is lodged by our Constitution there are limitations by the express provision of our Constitution and form of State government on the General Assembly—restrictions direct and positive and are imposed in the only grant of power to the Gen-

eral Assembly. It is a special grant of restricted and limited power to be exercised according to and within the form and methods prescribed by the Constitution. A special grant of particular and limited power cannot by construction be extended beyond the restrictions and limitations of the grant, and the grantee of such power cannot by indirection go beyond these limitations and restrictions, or evade these prohibitions. The power of the General Assembly to initiate any proposal of amendments to the Constitution is to be strictly construed and must be confined to the mode and manner and form prescribed in the special grant in the Constitution. The Legislature is not authorized, but is directly prohibited from assuming any of the powers of a Constitutional Convention, and cannot propose for the adoption by the people of the whole Constitution in the form of amendments.

Livermore vs. Wait, 25 L. R. A. p. 315.

The power to revise and amend generally the whole Constitution is vested in the Convention which derives its whole power from the people. If the General Assembly cannot, under the form of law, thus assume the powers of the Convention, much less can it command in advance what revision, or amendment, or alteration, shall or shall not be made in the Constitution by the Convention in which alone this sovereign power is vested. Would not such a doctrine be in effect to vest in the General Assembly, may be indirectly and negatively, but nevertheless in substance, the power to control the people, to dictate to them and to the Convention, what amendments, alterations, and revisions, shall or shall not, be considered and placed in the Constitution. Would it not arm the General Assembly with the power in advance by the act for submitting a mere proposal to the people, that a Convention shall be held to revise and amend the whole Constitution, to perpetuate provisions obnoxious to the people? Could it have been the intention of the framers of the Constitution of 1875 to arm the General Assembly with the paramount power of restricting a Convention called by the people to those alterations and amendments only

which the General Assembly deemed proper and desired, and thus hampering, binding and fettering in advance the only body which can place restrictions on its power? The very act itself forbids such a construction. Section 1 plainly and unmistakably speaks its purpose and scope; namely: "That on Tuesday, the 23rd day of April, 1901, an election shall be held for the purpose of determining whether, or not, a Convention shall be held to revise the Constitution of this State, and the question of Convention or no Convention, shall be submitted to the vote of the qualified electors of this State, and if a majority of the voters, voting at said election shall approve the holding of a Convention for the purposes stated, the Convention shall be held as hereinafter provided." And Section 7 is in the following language: "Said Convention shall continue in session until it shall by careful revision and amendment of the present Constitution, frame and adopt a revised Constitution for this State."

Can it be contended with any show of reason, or authority, that the power to revise and amend the Constitution was not to be lodged by the people, but lodged by the Legislature, in the Convention according to the express provisions of the Constitution and of this Act? It cannot be contended that by the clause "as hereinafter provided" that the General Assembly had the authority to dictate to a Convention with such broad powers vested by the Constitution in the people and their Convention, what provisions (as the General Assembly seemingly attempted to do), should, or should not, be placed in the Constitution by the commissioned representatives of the sovereign people in the exercise of their delegated and paramount powers to revise and amend the fundamental law of the State. The expression "as hereinafter provided" cannot exceed the power vested in the General Assembly under the limitations of the Constitution, namely: To prescribe the qualifications and mode of selecting the delegates and fixing the time and place for the assembling of the Convention, and such other incidents within the limitation on its powers prescribed in the Constitution in its special grant and in

harmony with the expressed purpose and power of the Convention in aid of the sovereignty of the people. Any other commands, provisions, and limitations, restrictions and penalties, direct or indirect, not thus in harmony, or in the aid of the purpose and powers of the Convention are void. This is a different question from that of submitting back to the people for their approval, or disapproval, the revision and amendments of the Constitution—the appointed work of their delegates—for this is not in opposition to their inherent and sovereign rights, and is in harmony with a wise policy conservative of the privilege of the sovereign people to finally supervise the work of their representatives and delegates, and approve, or disapprove, the same. In the other cases, the General Assembly proposed to limit the powers of the sovereign people and dictate in advance what a Convention called by the people and receiving its authority solely from them shall do and restrict the exercise of power over which it has no control. The one is in aid of, and in consonance with, the power; the other is antagonistic thereto and subversive thereof. The one may be valid, the other must be valid—that in aid of and in consonance and harmony with the sovereign power and its full and free exercise can stand, the other must fall. If the General Assembly has the vested right to limit the time of the Convention to fifty days, it can restrict it to ten days, or one day; it has the vested right to provide for per diem compensation for fifty days, it can provide for only one day or for no compensation. It is admitted by the very able lawyers holding a contrary view, that if the General Assembly had made no provision for the payment of any compensation to the members and officers, clerks, or for stationery, printing and all other things proper and necessary to enable the Convention to perform freely and according to its own best judgment and discretion the duties imposed upon it, that the Convention would have the power and authority to fix the compensation of the members and provide for its payment out of the Treasury of the State. This is, therefore, an admission of the inherent power of the Convention to do so; and

then can it be contended that the full exercise of this power is forbidden, controlled and abrogated by a clause in this legislative act providing compensation for part only of the time? Is it not the correct doctrine and construction that the section fixing the per diem compensation of the members, being in harmony and consonance with the purpose and power of the Convention and the sovereignty of the people, should be held valid, and that the proviso thereto in the nature of a covert penalty, forbidding compensation for a longer time than fifty days must be held invalid and void as being antagonistic to the power of the Convention and not in aid, but in antagonism to the sovereignty of the people. The people, and they alone, could, by their vote, peremptorily command that a Convention shall be held for the purpose of revising and amending the whole Constitution, and they alone elected and commissioned their delegates and vested them only with full power to do their work, and in the language of Section 7 of said act, "To continue in session until they shall, by careful revision and amendment of the present Constitution, frame and adopt a revised Constitution for the State."

This was the purpose of the Convention, and this was the power and authority vested by the sovereign people in the members of the Convention. Where a general power is conferred, or a duty enjoined, every particular power proper and necessary for the full and free exercise of the one, or the careful performance of the other, is also conferred and when a general power is possessed by a Convention to perform a duty, it possesses, by implication, every special power conducive to the proper performance of the duty enjoined, and the sole measure of the power is the extent and scope of the purpose to be accomplished—so it unmistakably follows that there was implied in this full, plenary and general authority, the particular power to pass an ordinance or resolution, proper and necessary to the full, free and "careful" exercise of the authority and to the faithful discharge of the duty. This power to do everything proper and necessary, fairly within the scope of the purpose of

the Convention, so as to make the power effectual and to accomplish the purpose, is absolutely conferred by implication, and any restriction upon this implied power is as completely void as a restriction on the granted power, and any restriction and limitation antagonistic to the accomplishment of the duty imposed by the General Assembly must necessarily be invalid, void and of no effect. Every restriction and limitation and provision imposed by the General Assembly antagonistic to this right of the people to have their delegates freely and fully and carefully and deliberately perform their duty untrammelled and unhampered, and finish their work of "careful revision of the present Constitution, and for framing and adopting a Revised Constitution for the State," must be held null and void in excess of the power and authority of the General Assembly of Alabama. It therefore follows that the regulation so far as it provides for the per diem compensation of the members is valid, but the proviso thereto "That per diem compensation shall not be allowed or paid to any member of the Convention for a longer time than fifty days" must be held void and thus leaving in force the other provision for compensation for the whole time the Convention is in session.

It is, however, insisted, that the Convention cannot provide for the payment out of the treasury of this per diem compensation, because such provision would be in contravention of Section 33, Article IV (Legislative Department) of the Constitution of this State, to-wit: "That no money shall be paid out of the treasury except upon appropriation made by law and on warrant drawn by the proper officer in pursuance thereof," and it is contended that this means that it must be statute enacted by the General Assembly of Alabama—that a bill must be introduced in the General Assembly and passed in compliance with the requirements of the Constitution for the passage of an act of the General Assembly and must be approved by the Governor, and that is the Convention is but one body, and cannot comply with these requirements of the Constitution, it has no power of legislation. I have been unable to find any

direct adjudication by the courts on this question, but have found some dicta in opinions which, *arguendo*, tend to sustain this contention; and Mr Jameson fails to cite any such direct adjudication of the courts to this effect. He does, however, give the three opinions respectively of the Attorney Generals of Georgia, New York and Pennsylvania against the power of the Convention to appropriate money out of the treasury to payment of compensation to members of the Convention, clerks, et al, and for printing and for stenographic reports.

These States had provisos in their Constitutions similar to said Section 33 of Article IV of the Constitution of Alabama; but the Constitution of all these States in force at the time of the rendition of these opinions did not contain the same provisions as to amendments of the Constitution by Conventions as these of this State; and their arguments were based on the assumption that such appropriation was vested solely in the Legislative Department, and that a Statute must be passed according to the form prescribed by the Constitution and that the Legislature had the authority under these Constitutions to restrict the exercise of the powers of the Convention. It is not a full and correct statement of the law to say that a Constitutional Convention possesses no legislative power? In the language of the decision in *Goodrich vs. Moore*, 2 Minnesota, p. 61, "A Constitutional Convention is the highest legislative assembly recognized by law, and has full control of its proceedings and may provide in any manner it sees fit for the perpetuation of the record of its proceedings."

"A Constitution which fixes and defines a right may exercise legislative power in providing the means for its enforcement."

Schirley vs. First National Bank, 47 Ill. App. p. 124.

A Constitutional Convention exercises the highest legislative powers for it enacts, ordains and declares

the fundamental law of the State; and the precedents conclusively show that such Conventions have time and again exercised legislative powers in the enactment of ordinances, resolutions and schedules to provide for and against temporary contingencies and to meet the changed conditions necessitated by revisions, amendments and alterations in the existing Constitution, and of this necessity the Convention is the best judge and to its judgment and discretion it must ex necessitate be left. From the very necessity of the case and the uncertainty of the fact that existing laws can meet every contingency, or answer every condition and demand, a Constitutional Convention must have the power to enact laws required by the duty imposed on it and to enable it to discharge the trust reposed and to provide for the very changes made in the fundamental law. The Convention of 1875 passed a law and placed same in the schedule, changing the provisions of the act providing for the call of the Convention by repealing part and amending Section 12 of said act as to certain proclamations required to be made by the Governor and the publication of the copy of said Constitution which, by his proclamation was to be submitted to the people for ratification. The Constitution does not say that in pursuance of a statute, or a law, but "in pursuance of law" and when the Convention ordains or declares that anything shall be done within its power then this is a law, and any act directed to be performed thereunder is in pursuance of law.

It is held, and it is admitted by the learned lawyers differing with me in this opinion, that when the Constitution declares the amount to be paid an officer, such declaration constitutes an appropriation made by law, and no subsequent act was necessary to its payment out of the treasury.

6 Am. & Eng. Ency. Law (2nd ed.) p. 914 and note.

State vs. Weston, 4 Neb. p. 216.

Thomas vs. Owen, 4 Maryland, p. 189.

This settles the fact and law that the Convention has

the vested power to make appropriations and that appropriations made by it is in pursuance of law, and the form and place—whether in the Constitution or in an ordinance, or in a resolution or declaration, must depend upon its character—whether fundamental, or permanent, or temporary, and upon custom and precedent and the rules of procedure adopted by the Convention.

A resolution of this Convention requiring the Constitution to be submitted to a vote of the people need not be placed in the Constitution or in the schedule thereof, and is a binding law, and it certainly is not required that the resolution should be submitted to the people for ratification. But it is insisted that such an ordinance must, under this resolution be submitted to the people for ratification before it can become a law and that such an appropriation would not be “in pursuance of law,” until ratified by the people. The inherent power to enact a law, in the first instance is not dependent on a subsequent ratification.

There is one case holding that when the Constitution must be ratified by the people an ordinance to be valid must be submitted to the people and ratified by them.

89 Texas, p. 376.

This is contrary to precedent and custom and, I think, is unsustained by reason and authority. It is the custom to submit only the Constitution for ratification, and it is generally the accepted doctrine that a ratification of the Constitution is a ratification of all ordinances, and that this is required to validate only ordinances of a paramount and lasting character. This is not necessary to render valid as law, ordinances passed to meet exigencies, or that are simply temporarily required to enable the Convention to discharge its full duty and the duration of which temporary law will terminate with the final adjournment of the Convention. Assuredly an ordinance providing for the necessary clerical force, publication, printing stationery, stenographic report and payment for the same, and of the per diem compensation of members of the Convention is a valid enactment of a temporary nature, neces-

sary to the existence of the Convention and to the enabling of the Convention to discharge carefully and faithfully its duties. It cannot be insisted that such an ordinance must be subsequently ratified by the people either by special submission or by ratification of the Constitution, after its vitality has been exhausted—its life departed—a dead law—having expired with the final adjournment of the Convention.

In this connection I desire to call your attention to the able opinion of the court in the case of *Commonwealth ex rel Elkin vs. Griest*, 50 L. R. A., *supra*, where the doctrine is maintained that as the provisions of the Constitution for revisions and amendments of the Constitution are in an article separate and distinct from that of "Legislative Department" that the provisions of the article under the head of "Legislative Department" are not extended or referable to those under the head of "Amendments of the Constitution;" and that the revision and amendment of the Constitution is a separate and independent work by a differently constituted body with higher and greater functions and powers and not governed or bound or limited by provisions of the article on "Legislative Department."

It is insisted that it is a dangerous precedent to lodge in the Convention the power to pay its own members and employes. In *Luther vs. Borden*, 7 Howard (U. S.) p. 44, Chief Justice Taney says: "All power is liable to be abused when placed in unworthy hands." It may be pertinently asked in what worthy hands, or rather in hands less liable to abuse it, could this power have been placed than those of the chosen and selected delegates and representatives of the people recently elected by them and subsequently to the time of election of the General Assembly,, and charged by them with the high, great and responsible duty of revising and amending the Constitution of their State. The people have placed on every member of the Convention the "imprimatur" of their trust and confidence in his worthiness. It should not be even insinuated that these delegates will betray this trust, or abuse this power by fixing their compensation beyond a fair, reasonable and just amount

and contrary to precedent and custom regulating the rate of such compensation.

For the reasons given: It is my opinion that on the passage of a proper ordinance by the Convention in fixing a reasonable per diem compensation of the members of the Convention for the time in excess of the fifty days made payable out of the treasury, on proper certificates of the president and secretary of the Convention to you as Auditor of the State, of the amounts owing and due the respective members as such per diem compensation, you can draw your warrant as Auditor on the treasury therefor, and payment should be made of the same out of the treasury as payments of the compensation to members of the General Assembly are directed to be made.

Your attention is called to the following additional authorities in which the principles enunciated support this opinion.

Sproule vs. Frederick, 69 Miss. p. 898.

Loomis vs. Jackson, 6 W. Va. p. 708.

State vs. Neal, 42 Missouri p. 123.

Goodwin vs. Neal, 45 Georgia p. 109.

Maloney vs. Roberts, 32 Texas p. 136.

In re Senate file 25 Neb. p. 864.

Opinion of Judges of Supreme Court of New York, Appendix "D," Jameson on Constitutional Conventions, p. 665.

The New York judges say in this opinion that such attempted restriction on the power of the Convention may operate by way of advice or recommendation only, and not as law.

Permit me to say that I have come to this conclusion after careful examination, and with much hesitancy by reason of my first impression in favor of the correctness of the contrary view and the profound regard I have for the ability and learning of the eminent lawyers holding a different opinion.

Most respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA, July 24th, 1901

HON. WALKER PERCY,
Attorney at Law,
Birmingham, Ala.

DEAR SIR:

I have the matter mentioned in your favor under consideration, and will to-morrow render a decision to the Secretary of State. It strikes me if he has already decided that it will not discommode him in the discharge of his official duties that he has about yielded his contention. See *Phelan vs. State, ex rel Rosenstock*, 76 Ala. p. 49; *Randolph vs. State, ex rel Collier, Pinckard and Gruber*, 82 Ala. p. 527; *Brewer, Auditor, vs. Watson*, 61 Ala. p. 310; *Ib.* 71 Ala. p. 301.

I take the correct doctrine to be from these cases and cases to the same import in other states, and general principles enunciated in the text books, that any person or corporation having an interest in the record, namely, the field notes, etc., their lawful agents or attorneys have the right to inspect these records and take memoranda and copies thereof without charge. The limitation is that he must not obstruct the officers in charge in the performance of their official duties. Any person who simply for purpose of speculation, or to enable him with less expense to him personally to form a contract with the person or corporation interested in the record is not entitled to this right. See specially *Randolph vs. State, etc., supra*; *Phelan vs. State, etc., supra*.

This will be the substance of my opinion to the Secretary of State. The Secretary of State will have to decide for himself the question of the interest of the Tennessee Company in these records, and whether Mr. Miles is such an agent of said company as to entitle him to inspect and take copies of the records for the said company, and whether, or not, the giving of desk room

and the use of books in his office will obstruct him or his clerks in the discharge of official duties, or whether it will discommode the public generally. I suggest that under the decision of *Brewer vs. Watson*, 71 Ala. p. 300, the Secretary of State having the right to demand of Mr. Miles satisfactory evidence of his authority to represent said company for the purpose of making such investigation and of making such copies, Mr. Miles had better be furnished with proper written evidence of his authority in this regard.

Very respectfully,

CHARLES G. BROWN,
Attorney General.

NOTE—These suggestions were complied with by Hon. Walker Percy, Attorney for the Tennessee Company and this letter was received by the Secretary of State as my official opinion to him.

MONTGOMERY, ALA., Aug. 31st, 1901.

HON. T. L. SOWELL,
State Auditor,
At Office.

DEAR SIR:

You have referred for my official opinion the demand of Hon. W. B. McAlpine, solicitor of the Thirteenth Judicial circuit of Alabama, for payment, or rather for Auditor's warrant on the State Treasury, for commissions on account of solicitor's fees in this circuit over and above the solicitor's salary of Six Hundred Dollars fixed by the act of the General Assembly establishing said judicial circuit. The act fixing the salary at this sum does not provide for said commissions, and it is contended that he is entitled to said commissions under the spirit and intent of section 5528 of Criminal Code of 1896.

These commissions are in the nature of fees—are in

addition to the salary; and such statutes must be strictly construed and the law of fees and costs must be held to be penal and no fee must be demanded or received except in cases *expressly* provided by law. Statutes giving such fees cannot be extended beyond their letter. The demand must be within both the letter and spirit of the statute, and when a public officer demands a fee for services rendered he must point to some clear and definite provision of the statute which authorizes him to make the charge, or demand. See section 1353 of Civil Code of 1896 and section 4558 of Criminal Code of 1896 and authorities thereunder cited.

I am, therefore, constrained to decide that Mr. McAlpine is not entitled to these commissions and that you should refuse to issue your warrant therefor on the State treasury.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Aug. 31st, 1901.

HON. T. L. SOWELL,
State Auditor,
At Office.

DEAR SIR:

You have enclosed letter of Thomas F. Littlepage, Esq., tax assessor of Choctaw county, Alabama, and I gather from this letter and your communication that you request my opinion as to what should be shown by the book, commonly called "Abstract Book," Judges of Probate are required to make and "turn over" to the respective tax collectors by the first of October of each year, under section 3989 of the Code of 1896. There should be entered in this book a concise statement of

the book of assesment after it is corrected and completed showing in concise form the taxes, state and county, assessed against each tax payer. Simply giving the aggregate amount of state and county taxes against such tax payer will not be a compliance with this section. It should show separately the amount of general state tax, special state tax, school tax and all other state taxes on real and personal property and on other subjects of taxation assessed against each tax payer and should likewise show with like particularity all county taxes levied for county purposes. Although this "Abstract Book" as held in *Jackson County vs. Gullatt et al.*, 84 Ala., p. 251 and by statutory enactment following this decision confers no authority to collect taxes by compulsory process, yet it is an important book to the tax collector and tax payer and is regarded as a secondary warrant of authority to receive taxes voluntarily paid, and should be thus specific in its contents.

Very respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., Nov. 22nd, 1901.

HON. WILLIAM D. JELKS,

Governor of Alabama,

Montgomery, Ala.

DEAR SIR:

I have considered the communication of Hon. B. B. Ross, State Chemist at Alabama Polytechnic College, Auburn, Ala., to Hon. J. B. Gaston, judge of probate, Montgomery county, Alabama, which you referred to me for an official opinion. I had previously given you verbally my opinion on the question propounded, and now at your request state the same in writing.

The question propounded involves the construction of section 3368 of the Code of 1896 which is in the following language: "Whenever the judge of probate has

reason to believe that the death of any person, dying, or buried, in the county was caused by poison, he may order and obtain a chemical analysis of the stomach and contents of the body of such deceased person and to that end may employ the *State Chemist* to make such analysis and such analysis shall be reported to the judge of probate; and the costs and expenses, not exceeding fifteen dollars, incurred therein, must be paid by the county, on the order of the court of county commissioners;" and specially whether, or no, when the judge of probate has ordered such chemical analysis, it is mandatory on the State Chemist to make such analysis. There is nothing in the point suggested in the letter of Prof. Ross that the General Assembly did not by a separate act amending the former law reduce the maximum fixed for costs and expenses. The adoption of the Code of 1896 made section 3368 the law whether the change was made by Commissioner Martin, or the joint committee. See Act adopting the Code, p. 1 of Civil Code of Alabama of 1896.

That the "Alabama Polytechnic Institute" is a public corporation—and incorporated public State college, or institute, there can be no doubt. Constitution of Alabama (1875), Art. XLII, Sec. 9, p. 98; sections 3686 to 3689 Civil Code of 1896 (both inclusive); General Acts of Alabama, 1898-99, p. 22; *The Trustees of University of Alabama vs. Winston*, 5 S. & P., pp. 23, 24 and 25; *Mobile School Commissioners vs. Putnam*, 44 Ala., j. 506; *University of North Carolina vs. Maultby*, 8 Iredell (N. C.), p. 220; *Head vs. Curators of University of Missouri*, 40 Mo., p. 220.

The Professor of Chemistry, or State Chemist, at this institute, is unquestionably an officer in the sense that the law making power of the State can define and impose duties upon him which he must discharge. See authorities *supra* and specially pp. 225, 226 of 40 Mo. *supra*; and also Sec. 393 of Civil Code of 1896; *Meechem on Public Officers*, section 714.

Now are the words "may employ the State Chemist" to be construed as directory;—resting in the mere discretion, or will, of the State Chemist or to be construed

as imperative,—imposing a mandatory duty on him which he cannot in law refuse to perform?

Mr. Sedgwick in his work on construction of Statutes (2nd ed.), p. 331 lays down this rule: "Where a public body or officer has been clothed by statute with power to do an act concerning the public interest, the execution of the power may be insisted on *as a duty* even tho' the phraseology of the statute be *permissive* only." See also note on page 315.

And Mr. Black in his work on the Interpretation of Laws lays down this general and fundamental rule: "Where the statute provides for the doing of some act which is required by justice, or public duty, or where it invests a public body, municipality, or officer with power and authority to take some action which concerns the *public interest*, or rights of individuals though the language of the state be merely permissive in form, yet it will be construed as mandatory and its execution may be insisted upon as a duty. In Endlich on Interpretation of Statutes we have the rule, "Where the purposes of the statute are to provide for the doing of something for the *sake of justice*; something which concerns the *public rights*, or *interests*, and for the doing of which the public has a claim *de jure*; something which concerns and subserves a third party and for the doing of which they have a claim based on an existing right; and, of course, where the thing to be done concerns and subserves rights both of the individuals and the public,—in all these cases an intent must be inferred that in using a permissive phrase the Legislature really meant to impose an imperative duty." This author cites with approval the case of *ex parte Banks* 28 Ala., on page 35 of which the court lays down the universal rule of construction; "There can be no doubt that where a right is conferred, or something for the *public benefit*, or in promotion of public justice is prescribed and authority is conferred by permissive words to carry out the statutory purposes these words are obligatory and the exercise of the authority may be demanded as a matter of right."

The Supreme Court of the United States quotes with approval the following language, "When the statute directs the doing of a thing for the *sake of justice*, or for the *public good*, the word *may* is the same as the word *shall*. Thus, 23 Hen. VI says the sheriff may take bail. This is construed he shall, for he is compellable to do so. See *Supervisors vs. U. S.* 4 Wall, pp. 445, 446 and 447.

"Homicide perpetrated by poison," is the first definition of murder in the first degree—the highest and most aggravated degree of criminal homicide. The detection and punishment of such a crime is in promotion of public justice, for the public good, and is for the public interest of the people of the State. Unless this statute be construed as mandatory on the State Chemist, the purpose and intent of the statute would be defeated, and the power of the State to detect and punish such crime would be, in many cases, paralyzed.

I am therefore of the opinion that the duty to make this analysis is imperatively enjoined on the State chemist. It may be true that the compensation is small and inadequate, but this is a matter for the Legislature of the State and can furnish no legal ground for a failure to obey the law.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

NOTE—I am of the opinion that the amount limited is grossly inadequate. It is due to Prof. Ross to say that in his letter and actions he has manifested a sincere desire to faithfully comply with the law—but properly wished an official construction of same.

MONTGOMERY, ALA., November 26, 1901.

HON. J. M. CARMICHAEL,
Pres. Board of Convict Inspectors,
At Office.

MY DEAR JUDGE:

I am of the opinion that there should be included both the sentence for the fine, or for the strict punishment for the crime, and the sentence of hard labor for the costs of prosecution, in ascertaining that prisoner has been sentenced for hard labor for less than two years and not less than six months, and when these together show that he has been thus sentenced for less than two years and not less than six months, the convict is entitled to the *pro rata* deduction for such good behavior. In my opinion the letter and spirit of the statute warrant this construction.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Dec. 21, 1901.

HON. THOS. L. SOWELL,
State Auditor,
Montgomery, Ala.

DEAR SIR:

You have referred to me several letters from tax assessors and tax collectors with requests for my official opinion. These several questions may be summed up in the following: Does the Revised Constitution which became operative under the proclamation of the Governor of the State, on the 28th day of November last, change the rate of taxation so as to forbid the collection

of those taxes the assessment of which began on the first of October, 1900, at a higher or greater rate of taxation than that prescribed by the Revised Constitution, namely; six and one-half mills; and at what rate the taxes the assessment of which began on the first of October, 1901, should be assessed and collected?

I have orally expressed to you my opinion on this matter, and at your request will now give the same in writing. Constitutions are not in the matter of enabling acts, but are limitations on the otherwise boundless powers of the Legislature, in other words, the Legislature is not to look at the Constitution to ascertain what is permitted, but only to what inhibitions and limitations are put on its power and action.

Southern Railway Co. vs. St. Clair County, 124 Ala., p. 494, and authorities therein cited.

Whether, or not, a constitutional provision is self executing is a question of intention to be determined by the language used and the surrounding circumstances, and a constitutional provision should not be given a retrospective operation unless that is the unmistakable intention of the words used and the clear force of the surrounding circumstances.

2 Hares Am. Constitutional Law, p. 812, note 6;
Jungk vs. Holbrook, 62 Am. State Reports, p. 921;

Black on Constitutional Law, Section 70;

Endlich on Inter of Statutes, Section 506;

Garnee vs. Supreme Court, etc., 58 Cal. p. 88;

Lehigh Iron Co. vs. Township, 81 Penn. St., p. 482.

Cartersville Gas Co. vs. County of Chester, 81 Penn. St. p. 482;

“Provisions in a constitution which might render a law void will not be regarded as retrospective and retroactive unless it appears in a very clear and conclusive

manner that they were so intended; they will rather be regarded as prospective and as applying in the future."

Cutting vs. Taylor, 15 L. R. A. p. 691;

Potter's Dwariss on Statutes, 154, 155 and 162;

Sutherland Stat. Con. 204, 205, 451, 452, 463 and

464;

People vs. Shenango Co. 8 N. Y. p. 317;

6 Am. & Eng. Ency. Law, p. 917, par. 3;

Shreveport vs. Cole, 129 U. S. p. 43.

Under these rules of construction let us consider the provision of the Revised Constitution as to the rate of taxation. That the power to fix the rate of taxation is inherent in the Legislature and that this power is not under grant by the constitution and that the Legislature does not look to the organic law for a grant of this power, but looks to it solely for the limitations on this power, there can be no doubt.

What is the language of the Revised Constitution? "The legislature *shall not have the power to levy* in any one year a greater rate of taxation than sixty-five one-hundredths of one percentum on the value of taxable property in this State."

What legislature? Certainly not the legislature which levied the rate of taxation before the adoption of the Constitution. This provision recognizes the power and right of the legislature to levy the rate of taxation, and cannot and it was not intended to affect in any way the power of any past legislature which had exercised this inherent power within the limitations prescribed in the previous constitution of our State, for it is plain that under the constitution of 1875 the legislature did have the right to levy a higher rate of taxation than that prescribed in the Revised Constitution. This provision whilst mandatory in its limitations on a future legislature is not in itself self-executing, that is the provision of the constitution does not in and of itself fix the rate of taxation for future years, as a legislature assembling after its adoption must fix or

levy the rate of taxation, and is not compelled to fix it at six and one-half mills, but may fix and levy it at any rate less than that. In other words, the Revised Constitution does not in and of itself *proprio vigore*, fix or levy the rate of taxation at six and one-half mills. The provision does not act *directly* and *affirmatively* upon the subject and fix the rate of taxation, but by way of limitation on the *exercise* of the inherent power of taxation vested in the legislature.

There can be no question that this provision does not act directly upon the subject and taxable property in the State and fix the exact rate of taxation, but is only a limitation upon the power of the legislature. In the construction of a constitutional provision there is a wide difference between a limitation upon the power of the legislature and an inhibition upon persons, or subject matter. The latter is retroactive, the former is not, but prospective.

129 United State, p. 479.

The Supreme Court of Pennsylvania in an analogous case uses the following language: "These provisions do not execute themselves so as to repeal any existing laws providing for the assessment and collection of taxes. These sections merely impose limitations on future legislation, when it shall thereafter be enacted."

Cartersville Gas Co. vs. County of Chester, 97 Penn. St. 481.

A constitutional provision that the right to damages resulting in death shall never be abrogated and the amount recoverable shall not be subject to limitation does not operate retrospectively, but is prospective.

Isolie vs. Wilbur, 147 N. Y., p. 329.

A provision that the legislature shall not pass local laws applies to future and not past legislatures.

Ex parte Burke 43 Am. Reports, p. 231.

Constitutional limitations as to the rate in levying of taxes only apply to subsequent legislatures after the adoption of the Constitution and does not repeal the rate leviable under previous laws.

101 Mo., p. 220.

It is deemed unnecessary to cite further the many illustrations of the rule shown in the authorities cited *supra* in this opinion. But it may be said that the schedule provides that all laws in conflict with the provisions of the constitution are repealed, and that the rate under the prior law being higher than the rate prescribed in the constitution it is in conflict and therefore repealed. But this is simply plausible and is begging the question and depends upon the provision being self-executing and retroactive and not simply a limitation on the powers of the legislature.

In my opinion the provision in its very language is simply a limitation on the powers of the legislature, and certainly the language does not clearly manifest an intention to make it self-executing and retroactive. Now, if the language were ambiguous, and we should consider the surrounding circumstances, we should bear in mind that when the convention adopted the Constitution on September 3d, 1901, every member thereof must have known that the legislature had levied or fixed the rate of taxation and had made the appropriations for carrying on the State Government; and had provided for the submission to the people the ratification or rejection of the Constitution, and that under the law the action of the people could not be had before the taxes already assessed would be due and payable and that the taxes in 1902 would be assessable. All these considerations are persuasive that the provision was intended to be prospective, and not self-executing and retrospective.

I am therefore of the opinion that the rate fixed by the act of the legislature before the adoption of the con-

stitution will control in the assessment and collection of said taxes.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Jan. 9, 1901.

HON. THOS. L. SOWELL,
State Auditor,
Montgomery, Ala.

DEAR SIR:

In compliance with your request I submit in writing the arguments, authorities and reasons for the oral opinion heretofore given you on the various questions arising under the poll tax provisions of the Revised Constitution referred to me for an official opinion. It is not deemed necessary to take up and discuss these questions *seriatim*, or in the order they are presented or answered in your circular letter of Jan. 2, 1902. In truth the answers to many of these questions depend upon and are but corollaries to the correct determination of the nature, object and purpose of these poll tax provisions forming an essential part of the frame work of our organic law. In *Carroll vs. the State*, 58. Ala. p. 554, a great jurist enunciates this rule for the construction of Constitutions, "Rules of statutory construction are of limited application in the construction of Constitutions. The safe rule of constitutional construction is to regard not so much the form and manner of expression, as the nature and object of its provisions and the ends to be accomplished, giving the words their full, just and legitimate meaning."

A constitutional provision is not to be interpreted on narrow, technical lines, but liberally, and on broad lines, in order that it may accomplish the object of its establishment and carry out the broad, general and

fundamental plan on any vital principle and purpose with which the Constitution deals."

Morrison vs. Bachert, 112 enn. (State) p. 322;
1 Story Const., Section 455.

"Miscellaneous provisions of minor importance, or those of temporary use, or needs, or to adjust changes made by the new Constitution to existing condition, which it is principally the function of a schedule to include, should be construed in subservience to the great, general principles, purposes, design and organic plan of the Constitution, and if their terms conflict, or seemingly conflict, with these provisions which are made of the essential frame work of the general plan and system, and their continuous and imperative operation, the former must yield and adapt themselves to the latter."

People vs. Potter, 47 N. Y. p. 375.

"It is not the office of a 'Schedule' or of miscellaneous provisions in a Constitution to abrogate, or contradict, the provisions of the permanent plan and system or restrict their full operation and effect,"

Commonwealth vs. Clark, 7 Watts & S. (Pa.)
p. 127.

State vs. Taylor, 15 Ohio St., p. 107,
Black on Con. Law p. 71, par. 14.

"Technical rules should not control the interpretation of a written Constitution, but it should be so expounded as to give full effect to its fundamental principles and plans so as to secure the harmonious action of the different parts of the plan and system, for the accomplishment of the purpose and intention of its enactment."

Hunts vs. State, 7 Texas Appeal, p. 212.

"In construing a constitutional provision the courts may inquire into the provisions superseded, the evil to

be avoided, the object to be attained, the remedy adopted and the reasons therefor, and will adopt that construction which will advance the remedy and give free and untrammelled operation to the means selected, and not one that may hamper, retard or restrict the remedial means and agencies."

See authorities *supr*, and
Ratliff vs. Beal, 20 So. Rep., p. 865.

"It is clearly manifest from the language alone that these poll-tax provisions of the Constitution are self-executing."

31 Am. Rep., p. 626;
Creswell vs. Montana Central R. R. Co., 33 L.
R. A., p. 554;
Norton vs. Brownville Taxing District, 129 U.
S., p. 479;
Miller vs. Marks, 55 Ala. p. 322;
Woodward Iron Co. vs. Cabaniss, 87 Ala. p. 328;
State vs. Holloday, 64 Mo. p. 385;
Ib. 66 Mo. p. 385;
Hill vs. Chicago, 60 Ill., p. 86.

It is an uncontraverted and universally accepted rule that where a later original affirmative constitutional provision, or such an act of a Legislature, covers the whole subject matter of an earlier constitutional provision, or statute, not purporting to amend it, but designed to create a new and independent system and to accomplish a different purpose and plan, it repeals the former and displaces entirely the old constitutional provisions, rules and statutes.

23 Am. & Eng. Ency. Law (1st ed.), p. 485, and the numerous authorities cited in note 4. Ib. p. 485 and notes.

Now let us apply these principles and rules to the

consideration of the questions presented for determination.

It is proper to notice the provision of the Constitution of 1875 and the statutes on the subject.

In Section I of Article XI of the Constitution of 1875, under the head of "*Taxation*," we have this provision: "All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, provided, however, the General Assembly *may levy* a poll tax not to exceed One Dollar and Fifty Cents on each poll, which shall be applied exclusively in aid of the public schools in the county so paying the same." And in Section 4 of Article XII we have the following provision under the head of "*Education*:" "The General Assembly shall also provide for the *levying* and *collection* of an annual poll tax not to exceed One Dollar and Fifty Cents on each poll, which shall be applied to the support of the public schools in the counties in which it is collected."

These are the only provisions of the old Constitution relative to poll taxes. The General Assembly of Alabama in pursuance of said provision *levied* and provided for the *collection* of such poll tax, from every male inhabitant of this State, over the age of twenty-one and under the age of forty-five years, to be thus applied to the public school fund of the county. This law was *mandatory* as to the *levy* and collection of this poll tax, and peremptory on the citizen to pay it.

It was not intended to, and could not affect the right of suffrage. It was peremptorily obligatory on the citizen, and had naught of the elements of voluntariness on the part of the person subject to the tax. He was forced and compelled to pay the same, and summary and extraordinary remedies were enacted to enforce its prompt payment and collection. Now compare these constitutional provisions with those of the Revised Constitution of 1901. Under the head and title, "Suffrage and Elections," Art. VII, Secs. 178 and 194, we have the following: "178. To entitle a person to vote at any election by the people he shall have resided in the State

at least two years, in the county one year, and in the precinct or ward three months immediately preceding the election at which he offers to vote, and he shall have been duly registered as an elector, and shall have paid on or before the first day of February next preceding the day of election at which he offers to vote, all poll taxes due from him for the year 1901 and for each subsequent year * * * * ." "194. The poll tax mentioned in this Article shall be One Dollar and Fifty Cents upon each male inhabitant of the State over the age of twenty-one years and under the age of forty-five years who would not now be exempt by law, but the legislature is authorized to increase the maximum poll tax age to not more than sixty-five years. Such poll tax shall become due and payable on the first day of October of each year and become delinquent on the first day of the next succeeding February, but no local process, or any fee, or commission, shall be allowed for the collection thereof. The tax collector shall make returns of poll tax collections separate from other collections." Section 195 contains a highly penal provision, as follows: "Any person who shall pay the poll tax of another, or advance him money for that purpose, in order to influence his vote, shall be guilty of bribery, and upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than five years." Section 259 of Article XIV, title "Education" is as follows: "All poll taxes collected in the State shall be applied to the public schools in the respective counties where collected."

There is not a word or line under the title "Taxation" in the Revised Constitution as to poll taxes. It is beyond all doubt that Sections 178 and 194 contain the main, dominating, and controlling provisions on the subject of the poll taxes. The conclusion is irresistible that these provisions of the Revised Constitution of 1901 cover the whole subject of the poll tax, creates and inaugurates an independent system with a totally different and higher end, object, aim and purpose. The former was a mandatory tax, levied, and to be collected,

if required by summary and extraordinary legal processes; the latter is in no sense a mandatory tax, but a voluntary payment, which voluntary payment is an essential constituent of the qualifications of an elector, and is a material part of a great suffrage plan directed to the correction and eradication of the grievous and atrocious evils which had festered and had disseminated moral and civic corruption and disease throughout the body politic, and with insidious progress was sapping and undermining the very foundation stones of a republican form of government and corroding and disintegrating and corrupting civic virtue and honor and social, political and moral honesty.

The whole of the former system was compulsory and attended with pecuniary penalties; the latter is purely voluntary and makes the voluntary payment of a sum definitely specified, fixed and limited by the Constitution itself an essential qualification for the privilege of suffrage, unattended by any pecuniary penalties and unenforceable by any summary or extraordinary legal remedies.

The latter is a complete repeal of the former law, save and except by the express provisions of the new Constitution, the exemption allowed by the law in force at the time.

There is a full and complete inhibition and limitation upon the power of the legislature to legislate on the subject, with this sole exception, that it may increase the maximum poll tax age to not more than sixty years; and the provisions of the Revised Constitution are self-executing and retroactive and repeal all the former laws on the subject. They are complete in and of themselves, needing no further legislation, and can be determined by examination of its terms, and there is no language which even indicates that the matter can be referred to the legislature for its action.

31 Am. St. Rep., p. 526;
Ib. 40 Mo., p. 140.

And, furthermore, the system and plan, the methods

and details of the provisions are so totally repugnant and diametrically opposed to those of the former law, that they are necessarily repealed, displaced and abrogated by the latter provisions.

The voluntariness of the payment so clearly and unmistakably pronounced, should not be coerced, limited, or restricted, or in any wise affected, by anything less than a clear and unmistakably express provision to the contrary, and surely not, by a doubtful construction of the terms of the "Schedule" and of the miscellaneous provisions. It is common knowledge that the main purpose of a suffrage plan curative of the evils endured, and that the same demanded and received the best thought and the fullest and ablest efforts and research of the members of the Convention, and necessarily the essential provisions thereof, and even the details, were of vastly more importance and received and demanded more attention by the people and more consideration by those interpreters and makers of the law than those minor provisions in the "Schedule" and in the "Miscellaneous Provisions."

People vs. Potter, *supra*.

This provision of the Revised Constitution is the result of practical wisdom and correct principle. The unwillingness, or neglect, of a citizen to voluntarily pay this sum to secure the exercise of the highest privilege and prerogative of citizenship should justly debar him from the elective franchise. He should be keenly alive and alert in securing this privilege and in its intelligent and conscientious exercise. Any man lacking in these qualities should not be allowed to vote.

But it may be contended that the "Schedule" or what is termed the saving clause therein, allows the enforcement of the collection of all taxes, penalties, fees, and commissions of assessors and collectors, but the saving clauses in express terms limit the same to those which

are not inconsistent with the provisions of the Revised Constitution and not otherwise therein provided, and therefore cannot affect the construction placed in this opinion on these poll tax provisions.

Again it may be insisted that under the head and title of "Miscellaneous Provisions" that section 281 of Article XVII in the words following: "The salary, fees or commissions, of any officer holding any civil office of profit under this State, or in any county,, or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected," and that under the phraseology of section 194 of Article VII, as follows: "Such poll tax shall become due and payable on the first day of October in each year, and shall become delinquent on the first day of the next succeeding February, but no legal process nor any fee, or commission, shall be allowed for the collection thereof," and that as the fee charged against the delinquent tax payers, or their property for failure to assess in the time prescribed, the poll tax for the year 1901, and which were assessable commencing on the first day of October, 1900, and delinquent as to assessment, under the general law on the first day of January, 1901, that the *assessor* is entitled to these fees, and the payment of the same can be enforced in the name of the State or by the tax collector through the special summary and extraordinary processes provided in the old law. It cannot be contended that this section in the "Miscellaneous Provisions" is a *limitation, restriction or inhibition* on the plenary powers of the Constitutional Convention, and annuls and makes void the provision of this new and fundamental system and plan of suffrage. Its operation and effect must be confined to cases not acted upon by the Convention, and provisions which increase or diminish such salary, fees, and commissions, are necessarily excepted from, and remain unaffected by this prohibitory prospective limitation upon the Legislature. Suppose the Constitutional Convention had increased or diminished the salary of the Governor during his present term, could it be contended that this

general section under "Miscellaneous Provisions" would abrogate and annul this special enactment of the Constitutional Convention? Unquestionably not. The construction contended for upon the phraseology quoted above of said section 194 is a narrow and technical one and cannot contravene the broad and far-reaching provision and purpose which are made a part of the essential frame work of this great plan of suffrage, and their continuous and imperative operation, but must be made subservient thereto. The proper arrangement and construction of said section 194 would be as follows: "No legal process for the collection thereof, nor any fee or commission therefor shall be allowed."

The offices of tax assessor and tax collector were not constitutional offices, with salaries fixed by the Constitution, but were subject to legislative control as to terms of office, duties, salaries, fees and commissions, and these officers had no property or contract rights, in the offices or the salaries, fees, or compensations, and a change of the same would be violative of the Federal, or State Constitution, as to the obligation of contracts, due process of law, or vested contract and property rights. Certainly the Constitutional Convention had original, inherent and plenary powers to do all this. It could have remitted in full these taxes and disarmed the State and the collector of the special summary remedies for the collection of the tax and necessarily of the fees or commissions incident thereto.

Hawkins vs. Robertson, 27 So. Rep., p. 327;
Brown & Street vs. Paris, 93 Ala., p. 316, (Bottom of page.);
Ex parte Lambert, 52 Ala., p. 79;
Beebe vs. Johnson, 52 Ala., p. 67;
Lovejoy vs. Beeson, 121 Ala., p. 607;
Perkins vs. Corbin, 45 Ala., p. 103;
Binford vs. Gibson, 15 Ala., p. 521;

Unquestionably the Constitutional Convention, so far as the State is concerned, could have remitted the taxes

altogether, or made the same voluntary, and disarmed the State's officials of the special, summary and extraordinary remedies placed in the hands of the tax collector for the enforcement of the collection of these taxes, and forbid the collector to refuse the sum of money definitely specified, fixed and limited by this constitutional provision, remit the officer to the enforcement of his claim against the "individual delinquent tax payer, or his property," and that is what the Constitutional Convention did, and this is the proper and clear construction and meaning of the provision: What the claim and the remedy may be, if any, and how the same can be enforced by the tax assessor against the tax payer, or his property, is not within the province of the Attorney General to determine, or even intimate. However, the following authorities may throw some light on the subject.

San Bernadine Co. vs. Pac. R. R. Co. 118 U. S.

Dig., p. 147;

State vs. Balt. & Ohio R. R. Co., 3 How. U. S.,
p. 354;

Confiscation Cases, 7 Wallace, p. 454;

United States vs. Morris, 10 Wheaton, p. 290.

The refusal by the tax collector to receive the sum thus definitely fixed and limited by the Constitution, unless the delinquent fee, or commission, be also paid, is adding to the qualifications of suffrage prescribed, or rather placing limitations and restrictions upon the voluntary payment of said sum, which would be contrary to the letter, essence and spirit of these constitutional provisions. The tax collector would thus authoratively say to the citizen, seeking to qualify as an elector, "You shall not be allowed to vote unless you pay in addition to this specified, fixed and limited sum, these fees to the tax assessor and to myself." This would arm a subordinate official with the power to annul the express provision of the Constitution. Your special attention is called to the case of Ratliff vs. Beal, 20 So. Rep., p. 865

arising under the Mississippi Constitution, and under a provision not clear and unambiguous as the one in our New Constitution, but one indefinite and somewhat confused, and this decision goes further than is required to sustain the rulings of your office on these questions. Under the general law in the Code the tax collector referred to in the Constitution is the well known county collector; what the effect of local laws may have on the rights and duties of others charged with the collection of poll taxes is not presented for determination.

Allow me to suggest that paragraph one in your circular may be too broad, the opinion was limited to the taxes specified in the Constitutional provision, namely, all poll taxes due and payable for the year 1901, that is the poll taxes, the general assessment of which began on the first of October, 1900, and which became payable on the first of October, 1901, and all subsequent poll taxes. Another rule might govern as to preceding poll taxes which have not been collected and the collection of which may probably be enforced against the delinquent tax payers, or their property.

I am,
Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., January 17th, 1901.

HON. J. C. OTT,
Registrar,
Florence, Ala.

MY DEAR SIR:

I received today your letter of 14th inst. asking my construction of sub-divisions 2, 3, and 4 of section 186 of the Revised Constitution (1901) of Alabama as to time to be "consumed by the board in completing reg-

istration of electors." In reply beg leave to state that the limitations fixed in said sub-division 2 refer to the general registration which must be completed prior to the first of August, 1902, and the several days and times mentioned in sub-divisions 3 and 4 are in addition to the time fixed in sub-division 2. This is clear from the very language of these sub-divisions construed together. The first sub-division defines the duties, regulates the procedure and fixes limitations on the time to be consumed in this general registration which is to be completed prior to first of August, 1902. It is manifest from the language of the third sub-division that it must take place subsequent to the completion of the general registration, namely, the first of August, provided for in second sub-division and is made with special reference to those who on account of the reasons and causes specified in said third sub-division could not register, or were prevented from registering. In construing sub-division four we should consider the fact that the Revised Constitution provides that the next general election shall be held on the first Tuesday after the first Monday in November, 1902, which will be the fourth day of November, 1902; and that the registration provided for in said sub-division four must necessarily take place after this general election, and therefore cannot be included in the limitation as to time fixed for registration prior to August 1st, 1902. The object and intent of this sub-division four is to give three weeks additional time after the general election in 1902, within which all other persons possessing the qualifications under section 180 of said Constitution and not disqualified under section 182 shall have the additional opportunity to register under the temporary plan and become electors during their lives, altho' not having registered under sub-divisions 1, 2 and 3, they could not vote in the said general election in the year 1902.

Very respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., January 20th, 1902.

HON. WILLIAM W. BRANDON,
Adjutant General,
At Office.

MY DEAR SIR:

Section 194 of Revised Constitution (1901) of Alabama defines and fixes the amount of poll tax and the persons subject thereto. The amount is One Dollar and Fifty Cents "upon each male inhabitant of the State over the age of twenty-one years, and under the age of forty-five years, who would not be exempt by law." Section 2889 of the Civil Code of 1896, was in force at the time of the adoption of the Constitution and is still in force. That section specifically exempts every officer, commissioned or non-commissioned, musician and private of the Alabama National Guard from poll tax and jury duty during his *active membership*. Such officers, musicians and privates of the Alabama National Guard are, during their active membership, as fully exempt from the poll tax as those male inhabitants of the State who are not over the age of twenty-one years and under the age of forty-five years. It should be borne in mind that this exception to every such officer, musician and private is during his *active membership only* in the National Guard. It applies only during such active membership and has no application to a poll tax due and payable before his active membership began or which may become due and payable after such active membership had terminated.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., January 20th, 1902.

HON. WILLIAM D. JELKS,

Governor,

At Office.

DEAR GOVERNOR:

In the matter of the letter of J. R. Estes, of Mountain Home, Lawrence county, Ala., referred to me for an opinion, I beg leave to state that the conviction for a disqualifying crime by the tribunals of another State would disqualify him as a voter in this State.

A more serious question is, whether, after the adoption of the revised Constitution, you, as Governor, have the power to restore him to all the rights and privileges of citizenship and, among them, the privilege of suffrage. I am rather inclined to the opinion that this is an inherent right in the office of Governor and specially applicable to the case where a person has been convicted in another State, for the reason that it is undoubtedly the law that you, as Governor, have not the right to pardon a person convicted in another State, and the only way that a good citizen who has reformed himself could be restored to his political rights and privileges would be by the exercise of this executive authority. But the question is not properly before us. There has not been a compliance on the part of Mr. Estes with the provisions of section 1557 of the Code of 1896, which is in the following language:

"That on the application of any person disqualified by reason of conviction for any of the crimes mentioned in this section except treason, whether the Conviction was had in a State or Federal court, accompanied by the recommendation of fifty reputable citizens of the county of the residence of the petitioner, the Governor authorized to restore such person to all the rights and privileges of citizenship."

You will readily see that the serious question is whether the adoption of the revised constitution repeals this provision of the Code of 1896.

I would suggest that Mr. Estes make a regular application for restoration of these privileges, stating the crime of which he has been convicted, in what State and by what tribunal and that it be accompanied by recommendation of fifty reputable citizens of the county of the residence of the petitioner. You and I could then consult over the matter, and under the provisions of the Revised Constitution, it may be better to refer the matter to the Board of Pardons, because you have not the power to restore one to his political rights, unless the same is recommended by the Board of Pardons.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Jan. 30th, 1902.

HON. S. H. HERRIN,
Registrar,
Cullman, Ala.

DEAR SIR:

Yours of 28th inst., submitting question for my opinion as to rights and qualifications of persons named in your letter has been received. The domicile of nativity is presumed to exist, until a person has in fact with intent to sever his connection with his domicile of nativity, acquired another home with the intention of making the latter his permanent home. If when these persons left Cullman, the domicile of nativity, they did so with the intention of abandoning Cullman county as their domicile, and in fact acquired homes in another county, with the intention of making the latter the permanent home, then they became citizens of the latter

counties. If not they are still citizens of Cullman county. Again if they had abandoned their homes in Cullman county and acquired homes in other counties as above defined, and have returned to Cullman county,—the home of their nativity, abandoning their homes in other counties, and in fact and intent making Cullman county their homes and shall have resided in the county twelve months immediately preceding the election at which he votes, which general election will be on the 1st Tuesday after 1st Monday in November, 1902,—November 4th, 1902,—and have the other qualifications prescribed in the Constitution and are not disqualified under any of the provisions thereof they will be entitled to register. To make it plain, if these parties will have had their home in Cullman county twelve months immediately preceding November 4th, 1902, they will be entitled to register and vote at said election. So if they never abandoned in fact and intent the home of their nativity in Cullman county, as defined in former part of this letter; or if they did so abandon said home of nativity and afterwards in fact and intent returned to and made Cullman county their home, and will have resided in said county twelve months preceding November 4th, 1902, they will be entitled to register. In calculating this time you will count by calendar months, excluding the day of election, November 4th, 1902, and including the day of their return to Cullman county, so that if they thus returned to Cullman county on or before November 4th, 1901, they will be entitled to vote.

Am always glad to serve you.

Yours truly,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., Feb. 8th, 1902.

MR. W. O. PENNINGTON,
Registrar, etc.,
Baxter, Ala.

DEAR SIR:

Your favor of 4th inst., asking my construction as "to whether or not the 60 days in which the registrars have to make the precincts embrace the 14 days at the court house," etc., received yesterday. I presume that you mean by the expression "14 days at the court house" the provision of fourth subdivision of section 186 of the Revised Constitution requiring the Board of Registrars to hold sessions at the court house of their respective counties during the entire third week in November, nineteen hundred and two, and for six working days next prior to the 20th day of December, nineteen hundred and two. In reply beg leave to say that the time specified in subdivisions 3 and 4 is in addition to the time prescribed by second subdivision of said section. This is clearly manifest as the several times prescribed in third and fourth subdivisions refer to time subsequent to the first of August, 1902, whereas the time mentioned in second subdivision refers to time prior to 1st day of August, 1902.

Yours truly,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Feb. 14th, 1902.

HON. WILLIAM D. JELKS,
Governor,
At Office.

DEAR SIR:

In reply to your request for an opinion on the matters contained in the letter of Mr. J. E. Brown, of Albertsville, Ala., to you, I beg leave to say that the letter of Mr. Brown does not state when this municipal election is to be held; whether before, or subsequent to, the next general election in 1902, which under the Revised Constitution must be held on the first Tuesday after the first Monday in November, 1902, viz: On the 4th of November, 1902; but your communication states that this election will be held soon and I take it that it will be so held before the said general election. The provisions of the new Constitution as to qualification and registration of voters do not apply to any municipal election held prior to said general election. Necessarily anyone entitled to vote under the old constitution and laws passed pursuant thereto will be entitled to vote at such election held prior to said general election,—therefore the negroes and white men mentioned in Mr. Brown's letter if not disqualified under the provisions of the old constitution and the laws passed pursuant thereto will be entitled to vote at said municipal election. See section 184 of the Revised Constitution. Of course if there any special provision as to qualifications of voters under the municipal charter of the city of Albertsville, not in conflict with the provisions of the old constitution, then the special provisions of the charter will control.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., Feb. 14th, 1902.

HON. W. W. BRANDON,
Adjutant General,
At Office.

DEAR SIR:

I have the honor to acknowledge the receipt of your request for my opinion as to what per diem should be paid officers who are witnesses in court martial proceedings. I presume you mean by the question what fees shall be paid to witnesses who were officers in the National Guard of Alabama at the time they were in attendance as witnesses before the court martial. In reply I beg leave to state that the fees are provided for witnesses before the court martial, and not as officers ordered into the service of the State to aid in the enforcement of the laws thereof, and are necessarily controlled by the 6th subdivision of section 15 of an Act "To regulate the volunteer and military forces of the State of Alabama," approved February 23rd, 1899. Section 19 of said act has not the slightest connection with the administration of military justice by court martials; but section 15 covers in full and in detail such administration of military justice and specifically fixes the compensation of the members of the court and the fees of witnesses,—making no distinction between officers and privates as such witnesses,—and regulates the mode of payment. The fees of all witnesses before court martials are fixed by subdivision 6 of said section 15 at the same fees allowed to witnesses in civil cases, namely: One dollar and fifty cents per day and five cents per mile for each mile to and from their residence by the usual travelled route, and all necessary ferriage, tolls or turnpikes and toll bridges. See section 1536 of Civil Code of 1896 of Alabama.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 1st, 1902.

MR. W. O. PENNINGTON,
Registrar, etc.,
Baxter, Ala.

DEAR SIR:

The limitations as to time is that it shall not exceed sixty days, necessarily if registrars can faithfully complete this work in less time, the registration will be valid; but allow me to suggest that registrars should conform to the notices as to time published for each precinct—should remain the full published time at each precinct according to notice given in the precinct, unless *absolutely* certain that every man entitled to vote has registeed, or will not register.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 1st, 1902.

HON. H. C. MCPHERSON,
Registrar, etc.,
Blountsville, Ala.

DEAR SIR:

The two days' session just before the election in November will not have to be advertised unless there are two or more court houses in the county, then this notice shall be by bills posted at each of the court houses designating the court house at which they will sit. The times specified in third and fourth subdivisions of section 186 do not form any part of the time specified in second subdivision of said section and are in addition thereto.

Yours truly,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 4th, 1902

HON. WILLIAM D. JELKS,
Governor of Alabama,
Capitol.

DEAR SIR:

You have referred to me for my official opinion a communication to you from Hon. John R. McCain, State Land Agent, propounding the following questions:

1st. Does the statute of limitations of twenty years of adverse possession bar the State against parties holding, or claiming to hold, 16th section land for that period of time?

2nd. When notes have been given for 16th section land within what time must the State collect said notes?

These questions are somewhat indefinite and general and contradictory in the use of terms. I have orally given an opinion to Mr. McCain and explained to him the indefiniteness of his questions.

That sixteenth section lands can be held adversely, and that such adverse holding for the statutory period of limitation will bar recovery by the State for the use of the inhabitants of the township is settled law.—Lang vs. Brown, 4 Ala., 629; Miller vs. State, 38 Ala., 600; Molton vs. Henderson, 62 Ala., 426; State for use of Township vs. Connor, 69 Ala., 212; Gaston vs. State, 88 Ala., 459; Wyatt vs. Tisdale, 97 Ala., 594; Burke vs. Mitchell, 78 Ala., 61; Tennessee Coal & Iron Co. vs. Linn, 123 Ala., 112, 128, 129, 130 and 131.

It is clear from a review of the statutory enactments and the decisions thereon that in cases arising since the adoption of the code of 1886 the statute of limitations of twenty years has been in force as to 16th section and other school lands; that from the passage of the act of November 30th, 1876 up to the adoption of

the code of 1886 there was no statute of limitation, and that previous to the passage of said act of 1876 the limitation was ten years. It follows necessarily that to determine the period of limitation the time when the statute began to run must be ascertained. If there had been an adverse holding, or possession, of ten years before the passage of said act of 1876, the bar would be complete and a defense to the action; if the bar had not been thus completed before the passage of said act, there would be no statute of limitation applicable and the doctrine of prescription, or the common law rule of repose would control.

Whether, or no, a party can successfully invoke the doctrine of adverse possession, or statute of limitation, depends upon the facts of the particular case, and many considerations arising out of the nature of the contract, whether executory, or executed by passage of legal title, the relation of the parties, whether the possession is actual and under color of title or not, and whether the purchase money has been paid or not. So that to determine whether, or not, a party claiming to hold 16th section lands, or other school lands, can successfully plead the statute of limitation as to adverse possession will depend upon the facts of the particular case. As pertinent to the information desired by Mr. McCain as far as I have been able to ascertain in conversation with him I will state the general doctrine applicable to purchasers of 16th section lands under our statutory provisions. The statute of limitation as to adverse possession does not begin to run in favor of first purchaser of school lands, or those holding by descent from him, until the purchase money is paid, and no presumption of payment of purchase money will arise until after the lapse of twenty years. But the statute will run in favor of a vendee of the first purchaser having a conveyance of the legal title or having color of title, or having paid in full the purchase money to his vendor, although the first purchaser has not paid in full the purchase money and could not invoke the doctrine of adverse possession. The first purchaser not having paid the pur-

chase money cannot invoke the doctrine of adverse possession, unless he disclaims the title of the true owner, and claims to hold in his own right, and the evidence must show that the true owner had knowledge of this adverse holding, "or possession must be so open and notorious as to raise a presumption of notice to true owner."—Sample vs. Reeder, 107 Ala., 227; Perry vs. Lawson, 112 Ala., 483; Taylor vs. Dugger, 66 Ala., 444; State vs. Connor, 69 Ala., 212, 213, 217; Beard vs. Ryan, 78 Ala., 37; Newsome vs. Snow, 91 Ala., 641; Normant vs. Eureka Co., 98 Ala., 191; Croft vs. Doe ex dem Thornton, 125 Ala., 391-6.

A mere trespasser entering with the intention to hold the land adversely to true owner and claiming the same as his own and knowing that his title is defective and openly, publicly and notoriously holding adverse possession of the same for the statutory period, can successfully invoke the doctrine of adverse possession.—State vs. Connor, *supra*; Bernstein vs. Humes, 75 Ala., 241; Newsome vs. Snow, *supra*; Alexander vs. Wheeler, 69 Ala., 322.

But the extent of such possession without color of title is limited to his actual possession. *Possessio pedis* marks the boundaries of his possession. And such possession under this hostile claim must be brought to knowledge of true owner or such possession and claim must be so open, public and notorious as to raise a presumption of notice which the law regards as the equivalent of proof of actual notice.—Black v. Tenn. Coal, Iron & R. R. Co., 93 Ala. 111-13, and authorities therein cited; Tenn. Coal, Iron & R. R. Co. v. Senn, 123 Ala. 112.

It may be desirable to state the constituents of adverse possession as given in some of the latest and leading decisions of our court.

Possession to be adverse must be hostile, actual, visible, notorious and continuous.—2 Mayfield's Digest, p. 75, par. 4.

"Adverse possession may be said to be a collective fact made up of other facts which are essential, constituent

elements to the creation of the collective fact. Among these constituent elements are an actual possession of the *res*, and an open and notorious assertion of claim and ownership hostile to the true owner. After its creation, it is the continuation of this collective fact without interruption for the period fixed by the statute of limitations as a bar to the commencement of a suit that renders it effective as a defense. It is the thing that puts the statute in motion as controdistinguished from the statute itself and its continuity for a definite period that completes the bar of the statute. Even after the statute has been put in motion a break or interruption in the adverse stops the running of the statute. Moreover, a possession to be adverse must operate to dis-seize or oust some other claimant of his possession or right of possession. In speaking of adverse possession, its nature and incidents, in *Pickett vs. Pope*, 74 Ala., 122, 131, which was an action of ejectment by remaindermen against the grantee of the life tenant claiming to hold adversely, it was said by the court: 'An adverse possession, it will thus be seen, is something more than a mere possession, accompanied with hostile claim of ownership. It is true that, ordinarily, an actual occupancy of lands, accompanied with an open, notorious and uninterrupted claim of ownership, with intention to claim hostile to the title of the real owner, constitutes adverse possession. But this is so, only where the possession of the occupying claimant is hostile to the right of possession of some one else.'—*Washington, Admr., vs. Norwood*, 128 Ala., 390.

An essential element of adverse possession is an existence of the intent in fact accompanying the actual possession to claim and hold the land as the owner thereof.—*Stiff v. Cobb*, 127 Ala., 387.

The policy of statutes of limitations as to adverse possession is to give repose. The benefits and immunities which they confer are for the repose of adverse holders who have been in continuous possession asserting ownership for length of time the statute prescribe. Adverse possession, open, notorious, accompanied with acts of ownership, bars an action for recovery of lands

without reference to the *bona fides*, or of color of title, under which the adverse holder claims ownership. Tyson, Justice, in Washington, Admr., vs. Norwood, *supra*, p. 402, quoting with approval Smith vs. Roberts, 62 Ala., p. 38.

In answer to the second question it is my opinion that by analogy and parity of reasoning of the decisions in Lang vs. Brown, *supra*; Molton vs. Henderson, 62 Ala., 424; State vs. Connor, 69 Ala., 212, and Tenn. Coal & Iron Co. vs. Linn, 123 Ala., 112, and authorities cited, if the promise to pay the purchase money is in writing not under seal the statute of limitation of six years, if pleaded, would bar recovery; if under seal the statute of limitation of ten years would bar recovery. Tho' the remedy by suit on the notes, or contracts under seal be barred, yet the State could enforce its vendor's lien on the lands, in analogy to foreclosure of mortgage within twenty years.

Most respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., April 5th, 1902.

HON. WILLIAM D. JELKS,

Capitol.

DEAR SIR:

In reply to your request for an official opinion on the views and opinion of Capt. Wm. M. Byrd, Agent for Swamp and Overflowed Lands, as to sale of said lands and in whom is vested the power and authority to make such sale, beg leave to say that after a careful examination of the various and conflicting acts of the General Assembly of Alabama that I cannot agree with Capt. Byrd in his conclusion that the act of February 8th, 1861 (Acts of 1860-61, p. 12), is still in force. This act was expressly repealed by act of February 26th, 1872 (Acts of 1871-72, p. 53.) Without this express repeal

it is my opinion that it would have been repealed by the conflicting provisions of subsequent acts, specially the acts of 1886-87, p. 162 and 1892-93, p. 580.

The act of 1886-87, *supra*, vests the power and authority to make sales of such lands in the Governor of the State; but by the latter act of 1892-93, *supra*, it is made the duty of the several judges of probate under the rules and regulations therein prescribed to sell at public outcry said lands remaining unsold except those in the counties of Tuscaloosa, Lamar and Talladega. This act divested the Governor of the power to make such sales, and although such act cannot now be practically put in operation, this cannot have under the provisions of the constitution of 1875 and Revised Constitution of 1901 the effect of re-enacting or reviving the act of 1886-87, *supra*. It, therefore, results that there is no law now in force under which these lands may be sold. This will necessitate careful and systematic legislation by the next legislature of the State. As stated in a former opinion to Governor Johnston, the records in the office of the Secretary of State relating to these lands and their disposition are grossly incomplete and imperfect, and I may add that the legislation on the subject has been piece-meal legislation and is difficult to find by reason of the failure to codify these laws. From information and belief I am compelled to state that the State has suffered great loss from the want of systematic legislation and the failure to codify the laws on the subject, and the fraud, or incompetency, or negligence, or lack of careful attention on the part of some of those charged with execution of the law. I deem it proper to state that after rendition of the opinion Capt. Byrd had found the act expressly repealing the act of 1860-1861, *supra*, and called my attention to it before I mentioned it to him. Attached to the opinion rendered Governor Johnston there was a memorandum of this repeal on my copy of the opinion.

Respectfully submitted,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., April 11th, 1902.

HON. WILLIAM D. JELKS,
Governor,
Capitol.

DEAR SIR:

You have referred to me for my opinion the cost bill presented to you by the clerk of the city court of Birmingham, Ala., in the cause of State of Alabama for use of Branch Agriculture School and Experiment Station at Blountsville, Ala., vs. Fields, on the equity side of said court.

Under section 671 of the Code of Alabama of 1896 when the State of Alabama is plaintiff in a suit and is unsuccessful the State is liable for costs as individual suitors are; yet I have been unable to find any provision of law making appropriation for payment of same, so, as I have heretofore orally informed you, the contingent fund is the only one from which these costs can be paid. This fund is entirely within your control, and you can, at your discretion, order or refuse to order the payment of same out of this fund.

I think it proper to give a brief history of this case so as to place the matter correctly before you. The case is reported in 31 So. Rep., p. 7, and the facts are fully set out in the opinion, they clearly show that the suit should not have been instituted. The bill was filed first by said college as complainant, and a demurrer was interposed on the ground that said college was not a corporation—a legal entity—vested with the right to sue and be sued, and that the bill should have been brought in the name of the State for use of said college; this demurrer was confessed by solicitor for said college and the bill was dismissed. Thereupon application was made to Honorable Joseph F. Johnston, the Governor, for permission to use the name of the State in the prosecution

of the cause; this permission and consent was given in writing and Hon. W. K. Terry of Birmingham was selected as the solicitor to prosecute the suit. I am reliably informed by Hon. S. W. John, solicitor for defendant, Fields, that he appeared before the Governor and suggested to him the inadvisability of giving consent to the bringing of the suit, and that the Governor stated that the new Board of Control was pressing the litigation and that the State would not be put to any costs as this board had agreed to pay the costs of court in the suit, he would, therefore, decide to grant the permission, or consent, requested. Under the constructions placed upon section 1325 and 1330 of the Civil Code of 1896 when a suit is brought in the name of the State for use of another who is the beneficiary, the judgment for costs should be rendered against the beneficiary.—*State vs. Earnest*, 123 Ala., 631, and authorities therein cited.

This doctrine has been applied to beneficiaries who are capable of suing and being sued, and it is extremely doubtful if it can be applied, and I am of the opinion that it cannot be applied, to a beneficiary incapable of bringing suit or of being sued, as it is not a party against which a judgment of any sort can be rendered. However this may be, I am satisfied that in right, justice and equity under the facts in this case, these costs should be paid out of the fund appropriated to this school. Allow me to suggest that you have this bill of costs presented to the Board of Control with the request that they audit and pay the same.

There should be legislation as to costs in cases of suit in name of State for use of these schools similar to the law as to costs when suit is brought in the name of the State for use of inhabitants of townships in reference to 16th section lands. See section 1345 of Code of 1896.

The attention of the Legislature should be called to this matter in your message, and I will be pleased to

advise with you as to certain suggestions in reference thereto.

Most respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 15th, 1902.

HON. M. F. BROOKS,
Clerk Circuit Court,
Brewton, Ala.

DEAR SIR:

The compensation of sheriffs for feeding prisoners while in jail forms no parts of costs for payment of which defendant can be sentenced to hard labor. If he could be retained at hard labor after payment of fine and other costs for which he can be sentenced to hard labor for the payment of compensation of sheriff for feeding him while in jail, this would be indirectly, without a formal judgment and sentence to that effect, making him serve at hard labor to pay such compensation for feeding him. A convict is entitled to his discharge on payment of fine, or working out same and additional punishment if any imposed, and payment of or working out, the costs for which he was properly and legally sentenced to hard labor. Ex parte the State, 121 Ala., 327.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., April 13th, 1902.

HON. WILLIAM D. JELKS,
Governor of Alabama,
At Executive Office.

DEAR SIR:

In answer to your note referring to me communication

of the Honorable Commissioner of the General Land Office at Washington, District of Columbia, for my report on the information requested in said communication, I beg leave to say that all the lands included in certified lists numbered eleven and fifteen, certified to the State of Alabama, under the act of June 3rd, 1856, being within the conflicting indemnity limits of the grants made by said act of Congress in aid of the several railroads of said State, among which were the Alabama & Chattanooga and the Tennessee & Coosa Railroads, were selected by the said Alabama & Chattanooga railroad, and that these lands were mortgaged to the State of Alabama to indemnify the State against loss on bonds issued and endorsed by the State to aid in the construction of said Alabama & Chattanooga railroad, and that under certain acts of the General Assembly of Alabama commonly called the "Debt Settlement Acts," passed for the purpose of adjusting, compromising and settling said indebtedness between the State of Alabama, said railroad company and the holders of said bonds—(see act of General Assembly of Alabama, approved December 17th, 1874; act, approved February 23rd, 1876; act, approved February 20th, 1883,)—a deed was executed by the Honorable George S. Houston, as Governor of the State of Alabama, bearing date on the 8th of February, 1877, to John Swann and John A. Billups, as trustees, and in trust for the purpose of carrying out said adjustment, compromise and settlements aforesaid, conveying said lands by general description to said trustees, and that afterwards all said lands in certified list number eleven were certified and conveyed to said Swann and Billups, as such trustees, by Hon. Rufus W. Cobb, as Governor of the State, and that afterwards all the lands embraced in certified list number fifteen were likewise certified and conveyed to said trustees by the Hon. Edward A. O'Neal, as Governor of the State; and that the title to said lands regularly and legally passed to and is now vested in the Alabama State Land Company, a body corporate under the laws of Alabama, and that said company is now and has been

for many years in the possession of said lands. These certificates of conveyance executed respectively as aforesaid by Governors Cobb and O'Neal are endorsed on said respective certified lists now in the possession of said Alabama State Land Company, and I have caused the Hon. R. P. McDavid, Secretary of State, to examine and copy and certify to the correctness of the same. My reply has been delayed for the reason that these certified lists and some others are missing from the office of Secretary of State and thus necessitated an examination of the muniments of title in possession of said Alabama State Land Company, at its office and place of business in Birmingham, Ala. I have made an arrangement with the said Alabama State Land Company by which these original lists with the original certificates will be filed in the office of the Secretary of State and certified copies thereof given said land company. These records show that all the lands included in said certified lists numbered eleven and fifteen within said indemnity limits were selected by said Alabama & Chattanooga railroad and title thereto vested in said Swann and Billups, as such trustees, and that the Tennessee & Coosa railroad "has never had or claimed any interest in and to the same."

Very respectfully,

CHARLES G. BROWN,

Attorney General.

MONTGOMERY, ALA., May 30th, 1902.

HON. WILLIAM D. JELKS,

Governor,

At Office.

DEAR SIR:

I have the honor to acknowledge the receipt of your note of May 29th, 1902, enclosing communication of Tax Commissioner of Geneva county and other officials and citizens complaining of the dereliction in discharge of

his duties by Mr. J. O. McEachern, tax assessor of said county, and charging him with habitual drunkenness and willful neglect of his duties as such officer. You request that I should advise "how to obtain the relief asked." If the facts are as stated by these gentlemen this officer should be removed from office and should be criminally proceeded against. Under the decisions of the Supreme Court of this State the Governor has no authority to suspend, or remove, this officer from office. *Nolen vs. State, ex rel. Moore*, 118 Ala., p. 154-159.

Impeachment proceedings against him can be instituted in three ways:

1st. On report of the grand jury by information filed in circuit, city, or criminal, court of the county by the solicitor of the circuit.

2nd. Any five resident tax payers of the county may institute the proceeding upon giving bond with sufficient sureties payable to the officer sought to be impeached, conditioned to prosecute the impeachment to effect, and, failing thereon, to pay all costs incurred.

3rd. The solicitor of the circuit shall institute the proceedings by information filed in the circuit, city, or criminal court of the county when the circuit, city or criminal court shall so order, or when the Governor in writing shall direct the same.

If the information is filed in the circuit, city or criminal court of the county, the judge of said court shall make an order, either in term time or vacation, requiring the officer proceeded against to appear at a place and day, which may be either in term time or vacation, to be specified in the order, and answer the information. Certain duties are imposed upon the clerk of said court which are clearly and distinctly set forth in the statute, and which need not be enumerated here.

If the day specified in the order falls in vacation a special term of the court shall be called and held on said day or days in vacation for the trial of the cause.

If in your judgment the facts warrant such impeachment proceedings, and in your judgment the public good demands that this officer should be impeached and removed from office, you should direct the solicitor in

writing to institute such proceedings in the circuit, city or criminal court as may be deemed best calculated to secure a speedy and legal trial of the cause. If these facts stated in these communications to your Excellency be true, in my opinion they constitute a valid and legal ground for impeachment, and such proceedings should be instituted as speedily as possible.

Under Article 2, Chapter 175, pp. 389-390, of Criminal Code of 1896, this officer should be prosecuted for failure, or neglect, of any of the duties specified in said article, and the attention of the solicitor should be called to section 5150 of said article providing for criminal prosecutions for *any* neglect or failure imposed by the revenue law on such officer.

Very respectfully,

CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., June 9th, 1902.

HON. J. T. CLARK,

Chm. Board Registrars Lamar County,
Sulligent, Ala.

DEAR SIR:

There is no existing provision of law for renewal of lost, mutilated or destroyed certificates of registration. This is left to future legislative action. The fact that a man has registered and not the certificate entitles him to vote, and this fact appearing on the registration list accompanied with proof of his identity will entitle him to vote. The certificate is simply evidence of the fact of registration—maybe the best evidence—but the rule of evidence that when a written instrument which is the best evidence is lost, or destroyed, parol, or secondary, evidence of the fact therein contained is admissible in proof of the loss, or destruction of the written or printed instrument. When the gentleman who was so unfortu-

nate or negligent as to lose his registration certificate, goes to the polls and asks to vote, the election officers will investigate and see if his name appears on the registration list of the precinct, and if it does and he makes proof of his identity and of the loss or destruction of his certificate, he will be entitled to vote. I would suggest that the voter make a sworn statement to your Board stating the fact of his registration, and that his certificate has been lost, or destroyed, and your Board, if satisfied of the correctness of the statement, could very properly make the following certificate.

State of Alabama,
County of Lamar.
Precinct.....

We,, Registrars of Lamar county, hereby certify that A. B. duly registered as a voter under the Revised Constitution of Alabama in Precinct of Lamar county on the day of, 1902, as appears from the registration list of said Precinct and county, and a certificate of registration was issued to him on said day and date.

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Registrars of Lamar County.

This will not be a renewal of the certificate, but simply a certification of the fact of his registration, and the issuance of a certificate to him.

No election officer would refuse to allow him to vote on such proof. This is simply a suggestion for your guidance.

Very respectfully,
CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., June 27th, 1902.

HON. WILLIAM D. JELKS,
Governor,
At Office.

DEAR SIR:

Your favor enclosing letter of Hon. G. P. Dowling, judge of probate of Dale county, and requesting my official opinion on the questions therein propounded has just been received. Judge Dowling fails to state whether his county has a special law as to election of county commissioners and county superintendent of education. On examination of the act of the General Assembly of Alabama there is a special law "regulating and prescribing the manner of electing county commissioners of Dale county." Acts of 1896-97, p. 378. Section 1 of this act provides that the qualified electors shall at the general election for State and county officials in 1900 elect one county commissioner for each district of said county as now constituted. Section 2 fixes the terms of office of the commissioners—the two from the first and third districts holding for two years, and the two from the second and fourth districts holding for four years. Section 3 provides that at the general election for 1902 for State and county officers two commissioners shall be elected by the qualified voters for the first and third districts who shall hold office for the term of four years, and thereafter two commissioners shall be elected by the qualified voters at the general election every two years who shall hold office four years. The other sections have no bearing on the question.

This special act, like the general law on the subject, fixes the time for the election of these commissioners at the general election for State officers. The Revised Constitution changed the date of the general election from August to 4th day of November, 1902.

The effect of this constitutional enactment is neces-

sarily to fix the time of electing these two commissioners from the first and third districts to the general election in November.

There is no warrant or authority for holding a special election in the county of Dale for election of these commissions. I, therefore, hold that these two commissioners should be elected at the general election in November, 1902.

I have been unable to find any special law regulating the manner of electing the county superintendent of education for Dale county. I shall, therefore, take it that the general law in the Code of 1896 governs the election of this officer. The general law on the subject of election of county superintendent of education is found in section 3550 of Code of 1896, which is as follows: Unless by special act it is otherwise provided a county superintendent for each county is elected as provided in this Code.

As stated before, the Revised Constitution changes the date of the general election from August to November. This officer must be elected at the general election for State officers. A mere change in the date does not and cannot change the mandate and positive requirement that this officer is to be elected at the general election for State officers. There is no authority for holding a special election in said county for this officer. I, therefore, hold that the county superintendent should be elected at the general election to be held in November, 1902.

There may be some difficulty arising under section 3551 as to when the term of office of the county superintendent of education elected in November will begin—growing out of the phraseology of said section—and the fact that when this statute was passed the general election was fixed in August preceding the October, the month, in which the term of office commenced; and I will not now express an opinion on this point, as it is not presented in the question propounded, and as I doubt not this difficulty will be removed by the Legislature at its next session in January following.

The effect in the change of the date of the general

election will be to extend the terms of the present incumbents until their successors are elected and shall qualify.

I will state that this will be my ruling in reference to county commissioners when elections are governed by provisions of the Code.

Very respectfully,
 CHARLES G. BROWN,
Attorney General.

MONTGOMERY, ALA., June 13th, 1902.

HON. WILLIAM D. JELKS,
 Governor,
 At Office.

MY DEAR SIR:

Your note requesting an answer to the letter of Hon. M. N. Manning, judge of the county court of Clay, was received this morning. The letter presents the following facts: That an indictment has been pending for several years against one John B. Sims for murder in the first degree, and that Judge Manning was of counsel in the case, and, therefore, incompetent to try the same, and that every lawyer residing at the county site, or within said county, is likewise incompetent to act as special judge on trial of the cause. You request my opinion, "showing how, if any way, relief can be furnished these people." Judge Manning tentatively suggests that the supernumerary judge might preside at this trial, or that a special judge might be appointed by Your Excellency for this trial. A succinct statement of the constitutional and statutory provisions bearing on this question is presented for your consideration. It should be noted that the county court of Clay county was established by act of the General Assembly of Alabama, approved December 13th, 1897; see Acts of Alabama, 1897-99, pages 176-189, inclusive, and by this act this court and the

judge thereof have all the jurisdiction and powers of circuit courts and judges thereof. The act contains no provision for the contingency of the judge's incompetency to try a cause pending in said court; but the provisions of the Constitution and of the statutory law applicable to circuit courts and judges thereof are by said act made applicable to that court and the judge thereof. By sections 944 and 945 of the Code of 1896 such courts and the judges thereof have and exercise all the jurisdictions and powers of circuit courts and the judges thereof, unless otherwise provided by law, and the provisions of this Code authorizing the appointment by the Governor of special circuit court judges and defining their powers are made applicable to such courts. It thus becomes necessary to determine if the facts exist for the appointment of a special judge, or for requiring the supernumerary judge to try the case. The provisions of law as to appointment of special judge will be found in section 928 of the Code. It is only whenever it is made known to the Governor that *any regular term* of the court *will not be held* by the *regular judge* by reason of the *failure of the judge to attend such term*, or when impeachment proceedings are pending against him that such special judge can be appointed and can have jurisdiction and authority to hold such court. A similar state of facts must exist to authorize and empower the supernumerary judge to hold a regular term of a *circuit* or *chancery court*. It will be observed that the statute provides for the holding of circuit and chancery courts only—and there is no express provision of law which authorizes, or empowers, the supernumerary judge to hold city or criminal courts, or courts like the Clay county court. See Acts, 1898-99, p. 236. There is, therefore, grave doubts as to the authority and power of the supernumerary judge to hold a term of the Clay county court. The act providing for such supernumerary judge was intended to obviate, unless in exceptional cases, the necessity for the appointment of special judges.

Now it clearly appears that no such state of facts

exist, according to the statute, which would authorize either a special judge to be appointed to try the case, or the supernumerary judge to hold this term of the court, even if such supernumerary judge had jurisdiction to hold a term of this county court,—which in my opinion he has not. “No regular term of this court will fail to be held by reason of the absence of Judge Manning, the regular judge, and there are no impeachment proceedings against him.” I, therefore, advise that neither a special judge, nor the supernumerary judge, should preside on the trial of this most grave charge.

The letter of Judge Manning states “that every lawyer here is likewise incompetent to try the case.” I understand the letter to mean that every lawyer residing at the county site, or, at most, within the county of Clay, is incompetent. The constitutional provisions do not restrict the selection or appointment to such resident lawyers; but includes any disinterested person learned in the law practicing in the court,—so that any non-resident disinterested attorney who practices in the court can be selected by the defendant and the solicitor, and in case they cannot agree upon such person, he can be appointed by the clerk of the court.

We will next consider whether a remedy is provided by the Revised Constitution providing that judges may hold courts for each other. The provision of the Revised Constitution is broader than that of the Constitution of 1875, in that it covers not only judges of the circuit courts, but also judges of courts having the jurisdiction of the circuit courts. A mere reading of section 1 of the act establishing said Clay county court will show that it has the jurisdiction of the circuit courts. In *Payne vs. State*, 60 Ala., 80, it is decided, “If a disqualified judge arranges for another judge to hold a term of his court, such other judge may hear and try the issues arising in the case in which the regular judge is disqualified.”

I am, therefore, of the opinion that the judge of either the circuit court, or a court having the jurisdiction of

the circuit court—judge of a city or county court of another county—could hold a term of the Clay county court for Judge Manning, and hear, try and determine the issues in the case of the State of Alabama vs. John B. Sims, pending in said court and in which Judge Manning is disqualified from trying.

I would respectfully suggest that the speedy trial of this case depends upon the prompt and diligent action of Judge Manning. And I further respectfully suggest that he, may be, more properly, the clerk of the court correspond with non-resident lawyers practicing in said court, not connected with the case, and solicit one, or more of them, under a sense of duty as officers of the court and to aid in the administration of the law and as a courtesy to Judge Manning and for his relief from an embarrassing position, to consent to act as special judge in the cause; and, failing in this, I do not doubt that by a statement of the facts of the case and his embarrassing position and an urgent request from Judge Manning, a judge of either the circuit court, or court having the jurisdiction of the circuit court, will most courteously and in a spirit of fraternal friendship and from a sense of duty accede to his request and exchange terms of court with him.

Very respectfully,

CHARLES G. BROWN,
Attorney General.

EXHIBIT "A."

THE STATE OF ALABAMA,
COUNTY OF MONTGOMERY.

Whereas, Francis C. Randolph during his several terms of office as judge of probate of the county of Montgomery, State of Alabama, and while in the discharge of the duties of said office collected and received for the State of Alabama at various times, large sums of

money for and belonging to said State, which he failed and refused to pay over to said State, and thereby became indebted to said State, in the amount hereinafter stated; and, whereas, said Randolph, before the expiration of his last term of office, on, to-wit, about the 1st of April, 1895, abandoned his said office, left the jurisdiction of the State of Alabama, went to the Republic of Colombia, South America, and has ever since been without the jurisdiction of the United States of America and specially without the jurisdiction of the States of Alabama and Pennsylvania;

And, whereas, The said Randolph by the death of Thomas G. Corbin, late of the City of Philadelphia, in the State of Pennsylvania, on, to-wit, about the 17th day of December, 1901, became and is entitled to a large and valuable interest and share of about the value of Eighty Thousand Dollars, as an heir and distributee in and to said estate of said Corbin, deceased; of which estate one W. L. Corbin of said city and The Pennsylvania Company for Insurance on Lives and for Granting Annuities, a body corporate under the laws of said State and whose principal place of business and offices are in said City of Philadelphia, have been duly appointed administrators of said estate, and have legally and duly qualified as such administrators and are administering said estate under the laws of Pennsylvania;

And, whereas, The State of Alabama instituted suit by foreign attachment in Court of Common Pleas of said City of Philadelphia against said Randolph to enforce the collection of its said debt against said Randolph and subject his said share and interest in said estate to the payment of the same and garnished the said administrators of said estate as by the law and statutes of Pennsylvania in such case made and provided, so as to enforce said collection and subject said interest and share to the payment of said debt, and which cause is now pending in said court:

And, whereas, on the 27th day of October, 1897, the said Francis C. Randolph legally and duly executed and acknowledged his Power of Attorney nominating,

constituting and appointing Mrs. Sallie N. Randolph of the City of Montgomery, State of Alabama, United States of America, his true and lawful attorney, for him and in his name, to receive and receipt for any moneys or personal property which may come to him from any person, or persons, whatsoever, and further authorizing and empowering his said attorney in fact for him and in his name to sell, mortgage, encumber, or otherwise dispose of any and all interest he may have, in any real or personal property in the State of Alabama, or in any of the States comprising the said United States of America; and further authorizing and empowering his said attorney in fact to sign and execute for him and in his name all the requisite deeds, mortgages, notes, bonds, receipts, transfers and assignments, and generally to do and perform all acts necessary, or expedient, to carry out the purpose of said power; and therein ratifying and confirming all and singular the acts of his said attorney in fact done in and about the premises as though the same were done by him individually and in his own proper person. And which said power of attorney was duly delivered to said Sallie N. Randolph, and was thereafter, on, to-wit, the 31st day of December, 1897, filed and recorded in the office of the Judge of Probate of said Montgomery County, Alabama, as required by the laws of the State of Alabama,—and a true and correct copy of which said power of attorney has been filed with said administrators of said estate of said Corbin, deceased;

And, whereas, on the 1st day of March, 1902, the said Sallie N. Randolph as such attorney in fact and under, by virtue and in pursuance of the power and authority vested in her by said Power of Attorney executed and delivered for and in the name of said F. C. Randolph to the undersigned Cecil Wilcox an assignment and conveyance of all the said interest and share of said F. C. Randolph in and to said estate as aforesaid and in consideration, among other valuable considerations, of the payment in full first out of said distributive share and interest of said F. C. Randolph

in and to said estate his said indebtedness to the State of Alabama, and upon the distinct understanding, agreement and consideration that said interest and share of said Randolph or so much thereof as might be necessary, should be first divided, set over and applied to the payment of said indebtedness to the State of Alabama in preference and superior to any other claim or demand whatsoever, on, in or to, said interest and share;

And, whereas, On, to-wit, the 15th of October, 1902, the account of the State of Alabama against said Randolph was examined by his attorney and his representative, and the undersigned, and all parties interested therein, and it was duly ascertained and proven and admitted that on said date he was indebted to the State of Alabama, after allowing all credits,—principal and interest thereon at the rate of eight per centum per annum,—to the amount of Twenty-five Thousand One Hundred and Ninety-three and 97-100 (25,193.97); and whereas, The State of Alabama in consideration of a speedy settlement and payment of its said demand, and to save delay and any further expense and costs and in consideration of the promise of the parties hereto to secure a speedy payment of same, agreed to take and receive the sum of Twenty-one Thousand, Fifty-one and 59-100 (\$21,051.59) Dollars, with interest thereon at rate of five per centum per annum from said date to full payment thereof, in full satisfaction of the State's demand and of said Randolph's indebtedness to the said State.

Now, therefore, for and in consideration of the premises and to carry out in good faith this agreement between the State of Alabama and said Randolph and Sallie N. Randolph and said Cecil Willcox, and to expedite and secure the prompt payment and preference in payment, settlement and satisfaction of said indebtedness of said F. C. Randolph to said State as agreed upon as aforesaid, the said F. C. Randolph by said Sallie N. Randolph his true and lawful attorney in fact under and by virtue and in pursuance of the power and authority in her vested by said power of attorney, and said

Sallie N. Randolph individually, and the said Cecil Willcox, do by these presents, remise, release, convey and set over to the State of Alabama so much and that sufficient part and portion of said F. C. Randolph's said interest and share in and to said estate as will pay in full said sum of \$21,051.59, with interest thereon at the rate of five per centum per annum from the 15th day of October, 1902, to date of the full payment of the same, and the said administrators of said estate are hereby authorized and empowered, requested and directed to pay and set over out of said F. C. Randolph's said interest and share in and to said estate unto the State of Alabama through its properly accredited representative said amount in full in preference to any other claim, or demand, upon said distributive share as soon and as promptly as they can do so under the laws of Pennsylvania,—taking a proper voucher therefor and same shall be a full and valid credit to said administrators on any settlement and distribution of said estate. And the undersigned further bind themselves to do and perform any, every and all further proper or necessary acts, and to execute all such other instruments in writing which may become proper or necessary to effectuate and carry out the purpose of this instrument.

But it is expressly understood that nothing herein shall in any wise affect the said suit now pending in said courts of Pennsylvania of the State of Alabama against said F. C. Randolph, defendant, and said administrators as garnishees as aforesaid, nor in any wise affect any right, lien and preference obtained by the State of Alabama thereunder or thereby, nor the right to obtain judgment against said defendant for amount hereinbefore stated and agreed upon, and said garnishees, according to the laws of the State of Pennsylvania and the rules of practice and procedure of said courts of said State, save and except that on payment of said amount of \$21,051.59, with interest thereon as aforesaid, before said suit is reduced to judgment as aforesaid, then and in that event said suit may be dismissed at the costs of the defendant and his interest and

share in said estate, or continued, or put into judgment as aforesaid at the election of the undersigned and of the administrators of said estate.

In witness whereof the said Francis C. Randolph by his true and lawful attorney in fact, Sallie N. Randolph as aforesaid, and the said Sallie N. Randolph individually and said Cecil Willcox have hereunto set their hands and seal on this 11th day of December, 1902, in triplicate. All interlineations, additions in writing and erasures made before execution and delivery of these presents.

SALLIE N. RANDOLPH	[Seal.]
FRANCIS CORBIN RANDOLPH	[Seal]
by Sallie N. Randolph,	
his attorney in fact.	[Seal]
CECIL H. WILLCOX,	[Seal]

STATE OF ALABAMA, }
 Montgomery County. }

I, J. P. Knabe, a notary public duly appointed and qualified in and for said State and county hereby certify that Sallie N. Randolph, and Cecil H. Willcox, whose names are signed to the foregoing instrument of conveyance, and who are known to me, acknowledged before me, that, being informed of the contents of said conveyance they executed the same voluntarily and for the purposes therein expressed on the day the same bears date, the said Sallie N. Randolph acknowledged that she executed the same as attorney in fact of Francis C. Randolph, and in his name voluntarily on the day the same bears date, and for the purposes therein expressed.

Given under my hand and official seal on this the 11th
 [SEAL] day of December, 1902.

J. P. KNABE,
 Notary Public.

